TUDOR STUDIES

EDITED BY

R. W. SETON-WATSON

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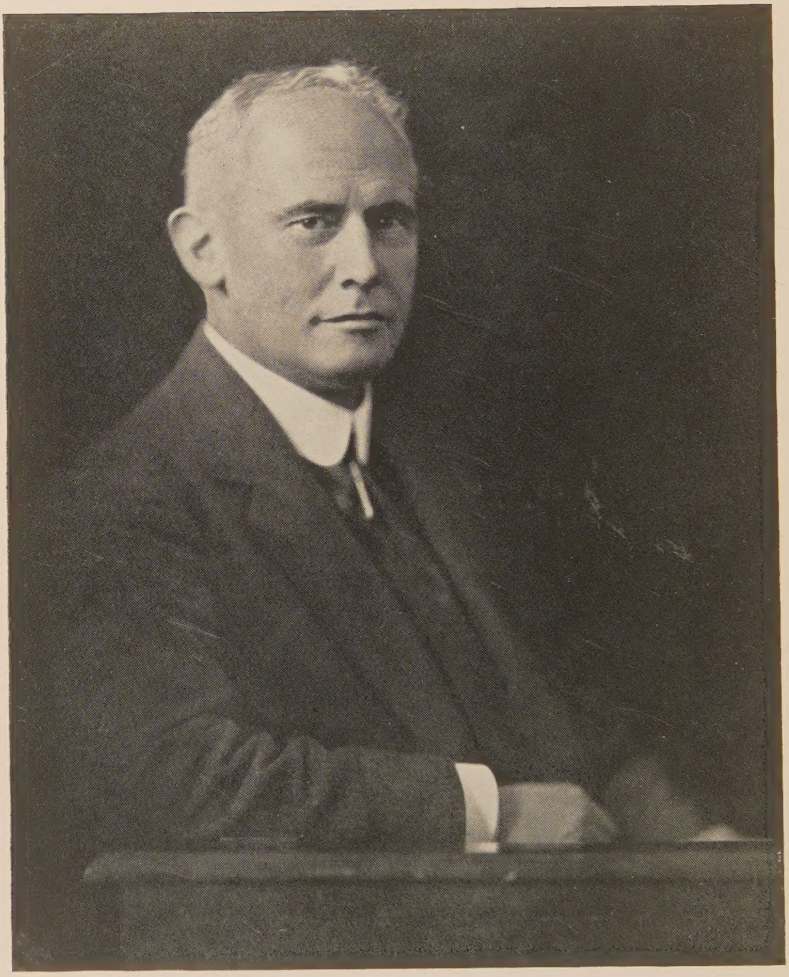

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A. F. Pollard

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TUDOR STUDIES

PRESENTED BY THE BOARD OF STUDIES IN HISTORY IN THE UNIVERSITY OF LONDON TO

ALBERT FREDERICK POLLARD

BEING THE WORK OF TWELVE OF HIS COLLEAGUES AND PUPILS ❧ EDITED BY R. W. SETON-WATSON

London. University. Board of Studies in History

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' It will not be the business of a School of History merely to make historians but to discover and spread historical truth. A University should be a focus of national intellect and a source of national inspiration : and it fulfils its function badly if it does not help to expand the national mind.'

A. F. Pollard—*Factors in Modern History*, p. 282.

Made in Great Britain

PREFACE

When in 1923 Professor Pollard resigned his position as Chairman of the Board of Studies in History, after a continuous tenure of twelve years, it was widely felt that his very great services to the cause of historical study in the University of London should receive some public recognition. It was therefore decided to present him with a collection of essays relating to that Tudor period which he has made peculiarly his own ; and the present volume, the joint contributions of twelve of his colleagues and pupils, is the result. The manner in which it originated rendered inevitable a certain lack of unity, but its contents may fairly be claimed as characteristic of the methods and subjects of research to which Professor Pollard has long paid special attention.

It was originally intended that on the eve of publication the Board of Studies in History should formally present Professor Pollard with a specially bound copy of this volume and an Illuminated Address, and that the latter should be printed in place of any preface. But while ' Tudor Studies ' was already passing through the press he accepted an invitation to lecture in America which will detain him there till after the New Year ; and as publication had already been delayed by various causes, further postponement was considered undesirable. The Address has therefore been omitted, and copies will be sent separately to the subscribers at a later date.

The twenty-one years that have passed since Albert Frederick Pollard first became connected with the University of London have worked a complete revolution in the study and teaching of history in the Metropolis. In 1904, in his Inaugural Lecture, it was still possible for him to declare that ' roughly speaking there is no such thing as a History School in the University of London.' Before that date only fifteen

persons had passed B.A. in History, and only five M.A. ; and even as late as 1912 only two internal and four external students had taken a D.Lit. in History. But since 1904 there has been a development hardly less rapid or remarkable than the movements which a generation earlier transformed the Historical Schools at Oxford and at Cambridge. The change may be indicated very briefly under the triple heading of students, teachers, and research.

(*a*) Between the years 1904 and 1911 the numbers of those taking a B.A. or M.A. in History rose twelve-fold and seven-fold respectively (186 and 37) ; and since the war they have again risen to 368 and 39 (in 1919–24). In 1923-4 there were 250 internal students reading for history.

(*b*) In 1903-4 the history staff of the University consisted of two professors and one assistant at University College, one professor and one lecturer at King's College, and one lecturer each at Holloway, East London, Westfield, and Bedford Colleges. To-day there are twelve professors and ten readers whose subjects are definitely historical ; and in addition there are twenty-two 'recognised teachers' and fourteen 'other teachers' engaged in historical teaching. The mere list of historical lectures delivered in the University fills twenty-six pages of a special pamphlet.

(*c*) For the session of 1903-4 post-graduate courses of lectures were announced in fifteen subjects in the Faculty of Arts, but History was not among them. In 1923-4 the Institute of Historical Research was in its third year of existence, with 146 research workers, 17 seminars, a growing library, and its own *Bulletin*.

It is unnecessary to add that in every phase of our historical renaissance Professor Pollard has taken a prominent part. In addition to his teaching duties he found time to publish much solid work in the Tudor period and in general constitutional history ; he was for five years a member of the Senate and for twelve years Chairman of the Board of Studies in History ; while as Editor of *History* he contributed very materially to the success of the Historical Association, and strengthened the connections of the University with those interested in history outside. But if there was one direction in which his energies found special vent, it was in the encouragement of post-graduate historical research, for which, he rightly contended, 'London possesses unrivalled opportunities'—indeed, 'a

monopoly of advantages which no other city in the whole Empire can boast.' It is above all to his initiative, vision and practical sense that we owe the foundation of the Institute of Historical Research in 1921 ; and as its first Chairman he has been tireless in consolidating and expanding its activities and in developing the all-important sphere of British-American co-operation in research.

In the Inaugural from which I have already quoted, and which may in some sense be regarded as the first charter of our new-born History School, there occurs the following passage: 'Now, it is often made a reproach to young men, that they dream dreams and see visions. But if it is commonly a reproach, it becomes once and again a privilege ; for a vision may be one of the future, and a dream does sometimes come true.' Thus Professor Pollard may fairly claim to have added the gift of prophecy to his other accomplishments !

His friends and colleagues of the Board, in inviting his acceptance of this volume, gratefully remember his past services to the cause of historical learning, and look forward to many more years of close and cordial co-operation.

R. W. Seton-Watson.

University of London,
King's College,
1 *November* 1924.

LIST OF ABBREVIATIONS IN FOOTNOTES

Acts of P.C. = *Acts of the Privy Council of England*, ed. Dasent.
B.M. = British Museum.
C.J. = *Journals of the House of Commons.*
D.N.B. = *Dictionary of National Biography.*
E.H.R. = *English Historical Review.*
Foed. = Rymer, *Foedera*, original edition.
L. & P. = *Letters and Papers, Foreign and Domestic, of the Reign of Henry VIII.*
L.J. = *Journals of the House of Lords.*
Proc. of P.C. = *Proceedings and Ordinances of the Privy Council of England*, ed. N. H. Nicolas.
Rec. Corp. = Records of the Corporation of London.
Rot. Parl. = *Rotuli Parliamentorum.*
S.P. = State Papers.
S.R. = Statutes of the Realm.
Y.B. = Year Book.

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TUDOR STUDIES

WALES UNDER HENRY VII

Historians have found but little to say about Wales under Henry VII. Bernard André must have met men who had lived at Ludlow Castle with Prince Arthur, and could have told tales enough of the wild life in the Marches. But André clearly had no taste for adventures, or he would have brought up his pupil on Malory rather than the Latin Fathers. Polydore Vergil too, papal collector by profession and historian by choice, could have heard from his colleagues something of the poverty of Wales.[1] But he burnt his fingers badly when he ventured to hint that Geoffrey of Monmouth had exaggerated the greatness of King Arthur : hence he says little about Wales in his own day. In writing his history of Henry VII, Bacon followed André and Polydore Vergil in the main, not disdaining, however, to ' furnish ' his work by help from Sir Robert Cotton, that ' worthy preserver and treasurer of rare antiquities.' A few years before Bacon's fall, another and less-known antiquarian had died in far-away Pembrokeshire, one George Owen, who had left behind him valuable material for the history of Wales. But George Owen, if remembered at all in London, was remembered only as an eccentric person who had claimed to be a Lord Marcher,[2] and Bacon, as Solicitor-General, had had more than enough, probably, of ' the tedious business of the Marches.' At all events his history begins with the battle

[1] In 1502 the clergy of the province of Canterbury granted £12,000 for a papal crusade against the Turks: the diocese of St. David's, the richest of the Welsh dioceses, was assessed at £86 13*s.* 4*d.*, the diocese of Rochester, the poorest of the English dioceses, at £126 10*s.* 0*d.* Pollard, *Reign of Henry VII*, iii. p. 182.

[2] *Acts of P.C.*, 1578–80, p. 303 ; George Owen's *Description of Pembrokeshire* (Cymm. Rec. Ser.), pp. 510–12.

of Bosworth Field, not with the landing at Milford Haven. Certainly Wales and Welshmen are mentioned now and then, Sir Rhys ap Thomas, David Owen, Hugh Vaughan ; there is a courteous allusion to Henry's Welsh descent, but no attempt at indicating its importance. Bacon was interested in matters of high policy, the doings of kings and popes and the fate of rebels ; the condition of Wales was one of those unimportant things that could well be omitted. Modern historians have mostly followed Bacon's lead : even if they tell of Henry's early life in Wales and his landing at Milford, they ' shog him to Shrewsbury ' as swiftly as did the Welshmen in the ballad.[3] If, however, it be admitted that the Union of England and Wales was one of the most permanently successful of Tudor achievements, then the condition of Wales under Henry VII is a subject not unworthy of study. In many departments of the national life Henry prepared the way for his more brilliant son. Did he do anything to facilitate the Act of Union in 1536?

In 1485 he came to Wales as a deliverer who belonged to a family of standing in North Wales. On his father's side he could claim descent from Cadwaladr and from Rhys, Prince of South Wales, even if he did not go so far as to boast that he was ' lineally descended by issue male saving one woman from Brutus grandson of Aeneas the Trojan ' and that he was ' son to Brute in five score degrees.'[4] Henry ' appealed to the ancient historic memories of the age, to the past that is ever present with the Celt.'[5] He was the long-promised hero who was to deliver his race from the intolerable yoke of the Saxon, the prince of the true Brutus succession, the descendant of Cadwaladr who was to wear the iron crown of Britain.

The historian of to-day must regret that in the army which marched from Milford to Bosworth there was no Giraldus Cambrensis, ready with graphic pen to record all that he heard and saw. From the scanty material that has come down to us it is no easy matter to build up a picture of the Wales of 1485, lawless and poor indeed, but with its noble castles still intact, and its hills and valleys still unmarred. The Anglo-Norman conquest was recalled by castle and borough and abbey, but the Welsh language still retained its vitality.

[3] Pollard, *Reign of Henry VII*, i. p. 14.

[4] E. Parry, *Royal Visits and Progresses to Wales*, p. 298.

[5] W. Garmon Jones, ' Welsh Nationalism and Henry Tudor,' in *Cymmrodorion Society Transactions* for 1917–18, p. 32.

Ancient customs still lingered, though tribalism had decayed partly through the process of escheat, partly through the influence of the castle and the growth of the borough, partly through the Black Death and partly through the cutting down of woods and the making of roads and quays.[6] The Principality [7] was still ruled on the lines laid down by Edward I in the Statute of Rhuddlan, the chief officials being the Justices of North Wales and of South Wales. The Marches consisted of about a hundred and thirty-six lordships.[8] Some twenty-two of these formed the Earldom of the March, occasionally called the Earldom of our Marches, or even the County of the March ; this earldom had its general Receiver, its special seal and its chancellor.[9] It had been the stronghold of the Mortimer power, and after Bosworth it passed into Henry's hands. He thus became even a greater marcher lord than his Yorkist predecessors, for he had not only their lordships, but the Lancastrian lordships in the south (Kidwelly, Monmouth, etc.). About fifty marcher lordships were at various periods in Henry's hands. The earldom of Pembroke, which under the Yorkists had been held by William Herbert, was granted to Jasper Tudor, Duke of Bedford, and, after him, to Henry's second son, Henry Duke of York. Holt, Bromfield, Yale and Chirk had been held by Sir William Stanley under a grant from Richard III, which Henry confirmed ; through his treason in 1495 his lands were forfeited to the King. Brecon, Cawes and Newport lordships were in the hands of the Crown during the minority of the Duke of Buckingham. Thus the way towards the union of England and Wales was being prepared by the concentration of many, and those the most important, of the marcher lordships in the hands of the Crown. The Tudors did not have to face great marcher lords, tenacious of the privileges handed down from forefathers who by their own swords had won the Marches from the Welsh.

[6] E. A. Lewis, ' Decay of Tribalism in North Wales,' in *Cymm. Soc. Trans.*, 1902–3.

[7] More accurately, the Principality and the Dominion of Wales. The Principality was the old Kingdom of Llywelyn (the modern Anglesey, Carnarvon and nearly all Merioneth) ; the Dominion included Flint and most of the modern Cardiganshire and Carmarthenshire.

[8] See Appendix IV (Ownership of the Marcher Lordships in the Reigns of Henry VII and Henry VIII), in my *Council in the Marches of Wales*.

[9] *Rot. Parl.*, vi. pp. 379*b*, 466*a*, 498*b* (title of the Earldom) ; 300 (Receiver) ; 337*a* and elsewhere in the Resumption Act of 1485, vi. pp. 337 ff. (seal) ; 355*b* (Chancellor). By 4 Hen. VII, c. 14, the use of the seal of the Earldom of the March was abolished.

Among the most instructive documents for the condition of Wales under Henry VII are the commissions issued in 1491 to various persons in the counties and lordships of Wales to raise money for the King's expedition to France. Four counties (Pembroke, Carmarthen, Cardigan and 'Meryonnothin' or Merioneth) are mentioned, and thirty-four lordships[10]; the list of commissioners comprises a grand total of forty names, but several names are included in more than one commission. The most important persons in Wales during Henry's reign were those attached to him by ties of kinship or friendship. Up to 1495 the foremost place was taken by Jasper Tudor, who as an 'illustrious prince' fulfilled the character given him a generation earlier by a Lancastrian partisan:

> 'Ther is a sayle yeard fulle good and sure
> To ye shyp a grete tresour,
> For alle stormes it wolle endure,
> It is trusty atte nede.
> Now ye sayle yeard Y wolle reherse,
> The Erle of Pembroke curtys and ferce.
> Acros ye mast he hyethe travers,
> The good shyp for to lede.'[11]

Besides being Earl of Pembroke, Jasper Tudor was Lord of Glamorgan, Newport, Abergavenny, Haverford and Cilgerran, and also Chief Justice of South Wales in succession to his old rival Herbert. But his duties in England and abroad during the years from Henry's accession to his own death in 1495 cannot have allowed him to spend much time in Wales. Yet he used some part of the wealth gained by royal grants to build one of the towers of Llandaff Cathedral, and he made sundry bequests to the friars of Cardiff, Newport and Haverford West, and to the church of Pembroke.[12]

[10] *Cal. Pat. Rolls*, 1485–94, pp. 353–5. There are one or two puzzles in the list: one of the lordships mentioned is Caermartyn, which looks like a form of Carmarthen: but Carmarthen has previously been mentioned as a county. On p. 355, 'Lordships of Gower, Ilande, Uske and Carlyon' should, I conjecture, be 'Gowersland, Uske,' etc.; cf. *Cal. Pat. Rolls*, 1485–94, p. 21, 'coroner of the lands called Gowerslond.'

[11] Political Poems, *Archæologia* (1842), p. 328. The date of the poem is 1458.

[12] For his will see *Somerset Mediæval Wills* (Somerset Record Society), series 1, p. 327. It is also printed in *Testamenta Vetusta*, p. 430.

Another kinsman of Henry VII, Viscount Welles, had a life-grant of the castle, lordships and manors of Usk and Caerleon (*Cal. Pat. Rolls*, 1485–94, p. 317). He was the son of Lionel, 6th Baron Welles, second husband of Margaret Beauchamp, who by her first husband, John Beaufort, was the mother of the Lady Margaret, mother of Henry VII.

Second only in importance to Jasper Tudor was Rhys ap Thomas, whose support of Henry Tudor after his landing at Milford Haven did much to ensure him the crown of England. The biography of Rhys in the 'Cambrian Register' was not written till the early seventeenth century, and undoubtedly exaggerates his importance. Mr. H. J. Evans dismisses it as valueless, but Mr. W. Garmon Jones argues that the writer would not have given to the world a fabrication openly at variance with the story as accepted in South Wales. The story goes that when Rhys heard of Henry's expedition he was in great perplexity and inquired from his family prophet, Robert of Dale, what the issue would be. The reply was that Robert's prophecies did not deal with the ways of princes. Pressed for an answer, Robert procrastinated, begging for a night in which to dream over the matter. Next morning he had his answer ready :

> 'Full well I wend
> That in the end
> Richmond sprung from British race
> From out this land the boare shall chase.'

Perplexed by this oracular ambiguity, Rhys asked for more details. Robert then sang :

> 'Hie thee to the Dale
> I'll to the vale
> To drink strong ale ;
> And so, I pray, have a care of us all.'

Unable to squeeze anything more out of his ale-loving prophet, Rhys took his advice, sent scouts to Dale and waited himself with his men at Carew for news. His support was worth having, for he was able to put into the field several thousand horsemen fully equipped.

> 'Then Sir Rice ap Thomas drawes Wales with him :
> a worthy sight it was to see
> how the Welchmen rose wholy with him,
> and shogged him to Shrewsburye.' [13]

Rhys was knighted on Bosworth Field, and later was made Constable, Lieutenant, and Steward of the Lordship of Brecknock and Chamberlain of South Wales. In 1505 Henry

[13] Pollard, *Reign of Henry VII*, i. p. 14.

made him a Knight of the Order of the Garter : as Fuller says, 'well might he give him a Garter, by whose effectual help he had recovered a crown.' Though Sir Rhys was never more than a simple knight, he was little less than a prince in his own country : had high rank been conferred on him, he might have been dangerous, for there was a prophecy that he should 'overshadow (*i.e.* rule) all lands between Tawy and Tivy.' Henry had no liking for prophecies in favour of other men. Sir Rhys had been brought up at the Burgundian Court, and transformed Carew Castle from a mediæval fortress into a sumptuous palace, where in 1507 he celebrated the great tournament in honour of St. George. A thousand persons in all, we are told, including hundreds of gentlemen from both North and South Wales, assembled for five days of mock fighting, hunting and feasting. On St. George's Day there was a grand review, and a picture was hung over the entrance gate showing St. George and St. David embracing each other ; beneath was the legend :

Nodo plus quam Gordiano.

The chronicler of the tournament tells us with evident surprise that for five days a thousand men lived together without one quarrel, unkind word or cross look : his surprise is justified. When the chief gentlemen took their leave of Sir Rhys, each received from him a medal with the legend *Nec poterat ferrum*, and above it two hands clasped. Sir Rhys long outlived Henry VII, for he did not die till 1525 ; his son, Gruffydd ap Rhys, was attached to the Court, specially to the service of Prince Arthur. At Derwydd,[14] one of the Carmarthenshire residences of Sir Rhys, is preserved a bedstead carved with scenes displaying his prowess and dignity, and at Rhyderwen is a shield showing his arms (a chevron between three ravens) and encircled with the Order of the Garter. Even if much of the above story is exaggerated, or perhaps deliberately invented, it is of interest as showing Welsh feeling towards England in the seventeenth century. In the early fifteenth century St. George and St. David could hardly have appeared in the same picture.

Other notable persons in Wales at the close of the fifteenth

[14] *Royal Commission on Ancient Monuments in Wales and Monmouthshire*, 5, pp. 69, 102, and *Arch. Cambrensis*, 1893, pp. 154–163.

century were Morgan of Kidwelly [15] and Matthew Cradock, the Herberts and the Stanleys : at Holt Castle Sir William Stanley stored the plunder from Bosworth Field, all of which fell to the Crown on his execution in 1495. Matthew Cradock's ship, bearing his own name, took part in the war with France early in Henry VIII's reign, and was one of the vessels described by Sir Edward Howard as ' gorgeas shipps for ther burdon.' [16]

The Tudor dynasty was popular in Wales and had no serious opposition to fear from either marcher lords or Welsh gentry : no rebel landed in Wales during Henry VII's reign and he was able to leave Wales unvisited, save for occasional sojourns in the Marches, as at Montgomery and Holt. His queen, in the summer of 1502, made a progress in the Marches, visiting Monmouth, Raglan and Chepstow ; the details can be read in her Privy Purse Expenses, printed by Sir Harris Nicolas.

Henry VII could hardly help adopting the Welsh policy of his Yorkist predecessors. As a marcher lord, his position was essentially like theirs, only stronger ; as King, he had the advantage over them in his Welsh descent. The course of events in the fifteenth century had shown the wisdom of the lines in the ' Libel of English Policy ' :

> ' Beware of Walys, Criste Jhesu mutt us kepe,
> That it make not oure childeis childe to wepe,
> Ne us also, if it go his waye
> By unwarenesse ; seth that many a day
> Men have be ferde of here rebellioun
> By grete tokenes and ostentacioun.' [17]

The Lancastrian ' lack of governance ' was probably more conspicuous in Wales and the Marches than anywhere else. The Rolls of Parliament abound in allusions to the murders and robberies committed there. Pennant [18] tells the tale of

[15] Identified by Mr. Ifano Jones with Tryhaiarn Morgan, a lawyer, mentioned in Lewys Dwnn's *Heraldic Visitations*, i. p. 218 ; not to be confused with Morgan Kidwelly, Richard III's Attorney-General, who was a Dorset man. (*Arch. Cambrensis*, 1919, ' Sir Matthew Cradock and Some of His Contemporaries.')

[16] *The War with France*, 1512–13 (Navy Records Society), x. p. 97 ; *cf.* pp. 19, 78, 85. For other references to Cradock, see *Cardiff Records*, i. pp. 198–202, iii. p. 39, iv. p. 107, and *Arch. Cambrensis*, 1919, *ut supra*. He married Perkin Warbeck's widow, after the death of her second husband, James Strangways.

[17] *Pol. Poems*, ed. T. Wright (R. S.), ii. p. 190.

[18] Pennant's *Tours in Wales*, ed. Rhys, ii. pp. 42 ff.

Reinallt ap Gruffydd ap Bleddyn (one of the Lancastrian defenders of Harlech), who was in continual feud with the men of Chester. In 1465, during Mold fair, a fray broke out between Reinallt's men and some Chester citizens, in which, after great slaughter on both sides, Reinallt got the victory. He took prisoner Robert Bryne, mayor of Chester, led him to his tower, and hanged him on a staple in his great hall. Later on two hundred tall men came out from Chester, seeking for revenge. Reinallt retired to a neighbouring wood, allowing some of his enemies to enter his house. He then fastened the door, set fire to his house, and burnt his enemies without mercy; the rest he pursued to the seashore, where they perished to a man. The law in the fifteenth century had little to do with family feuds: the few that were ended were settled by private treaty, as in an instance recorded in Harl. MS. 6079, f. 156. Walter ap Gwillim of Archenfield had been slain; six persons (one of them being Sir Walter Herbert) were chosen from various members of Walter's kindred and other persons accused of being in Brimfield 'at and for his death.' The award is that the persons appealed shall make a precise denial on their oath and on the Sacraments, that they are innocent of the deed. If they are proved to be guilty, they are to 'stand out of the peace.' None of the persons making the oath is to live in Wormelow hundred. For 'peasing of the said variance' the arbitrators bid the accused persons pay Walter's kinsmen £100 on four specified days. Peace was to be kept henceforth between the parties and the seals were affixed by the arbitrators to their award on December 20, 11 Hen. VII (1495). Conditions in Wales were such that the most unlikely—indeed unwilling—persons are found to be law-breakers. Bishop Dean of Bangor, who as Chancellor of Ireland had helped to suppress the movement in favour of Warbeck, was unable by peaceful means to gain possession of the Isle of Seals off Anglesey. He used what Giraldus would have called Welsh law, and at the head of an armed force drove out the illegal occupants.[19] These instances, few among many, show what need there was for the licence granted by the King to Prince Arthur[20] (March 20, 1493) to appoint justices of *oyer* and *terminer* within the counties of Salop, Hereford, Gloucester and Worcester, and the Marches of

[19] Newell, *History of the Welsh Church*, p. 375.
[20] *Cal. Pat. Rolls* (1485–94), p. 438.

Wales adjoining those counties, and in Wales. Later in the year 1493 the Prince received a grant of some twenty lordships, manors and castles in Wales and the Marches.[21] In 1501, soon after his marriage, the Prince was sent to the Marches to gain experience in government: Tickenhill House, near Bewdley, had been enlarged to serve as a royal residence in addition to Ludlow Castle. Some years earlier the Prince's Council is mentioned (January 31, 1494) in an order respecting a quarrel between Bewdley and Kidderminster, a clear indication that the Council for the Marches, begun by Edward IV, had been revived. Little information as to the work of this Council in Prince Arthur's time has survived, but there is a reference to him which, so far as I know, has hitherto escaped notice: 'Memorandum that my lorde prince president and Sir Rese ap thomas have kept a sessions at breknok which they have sold for ix c. which must be answered for as Sir R. Bray knoweth.'[22]

The title 'president' is curious, for the president of the Prince's Council was undoubtedly Dr. William Smyth, Bishop of Lincoln. Probably it means no more than that the Prince presided at this particular session at Brecknock.[23] Five months after his wedding-day Prince Arthur died at Ludlow. Little is known of the Council in the Marches for the rest of Henry VII's reign, but on June 18, 1502, a commission of *oyer* and *terminer* and of array was issued to William bishop of Lincoln, president of the Council in the principality of Wales, and seven other persons in South Wales, North Wales, and the counties of Salop, Hereford, Gloucester, Worcester and the Marches of Wales.[24]

Much further light is thrown on the administration of Wales by the Calendar of the Patent Rolls of Henry VII. Many of those who fought with Henry on his 'victorious field' were given offices in Wales as bailiff or coroner, steward or porter. A typical example is the grant for life to Adam ap Jevan ap Jankyn,[25] 'for services rendered very recently at his

[21] *Cal. Pat. Rolls* (1485–94), p. 453 (November 5, 1493).

[22] *Heron's Accounts*, P.R.O. Accts. Exch. Q. R., Bundle 414, No. 16.

[23] Sir Rhys ap Thomas was constable, lieutenant and steward of the lordship of Brecknock (*Cal. Pat. Rolls* (1485–94), p. 24). In *Hist. MSS. Comm.*, 2nd Rep. App. p. 72, are particulars of the Berington MSS. at Little Malvern Court, some of which are said to be connected with Prince Arthur's Council. The names mentioned show clearly that they deal with the Council of the Princess Mary, temp. Hen. VIII.

[24] *Cal. Pat. Rolls* (1494–1509), p. 295.

[25] *Ibid.* (1485–94), p. 31.

own costs in the King's victorious march and field,' of the office of King's attorney in the counties of Carmarthen and Cardigan. Offices of a higher grade were not withheld from Welshmen. Matthew Cradock was made constable of Caerphilly Castle, Sir Thomas Vaughan was granted the lordships of Cantresselly (Cantref Selif) and Penketly (Pencelli), William Griffith was Chamberlain of North Wales, and Rhys ap Thomas, as already mentioned, Chamberlain of South Wales.[26] It is clear that under Henry VII many Welshmen held offices in England. Sir David Owen was chief carver and was also constable and warden of Winchester Castle.[27] When the Princess Margaret journeyed to Scotland after the marriage by proxy at Richmond Palace it was Sir David Owen who rode before her 'all the sayd Voyage, richly appoynted.'[28] Many Welshmen held such household offices as yeoman of the crown, yeoman of the guard, yeoman usher of the chamber. Bacon records that on his coronation day the King, 'as if the crown upon his head had put perils into his thoughts, did institute, for the better security of his person, a band of fifty archers, under a captain, to attend him, by the name of yeomen of his guard.' He might count on the proved loyalty of his Welsh followers to defend him against Yorkist plotters. Some Welshmen rose to high municipal office: Sir Richard Exmewe, a native of Ruthin, was third warden of the Goldsmiths' Company in 1492[29] and Lord Mayor of London in 1517. Henry Vaughan was mayor of Bristol in 1486,[30] and Perkin Warbeck on his first visit to Ireland was examined at Cork by the 'Mayre of the Towne which was called John Lewelyn.'[31] Welshmen occasionally held benefices in England: a John ap Llewellin was presented in 1508 to the parish church of Musgrave in the diocese of Carlisle, and John Morgan was Dean of Windsor; Maurice ap John was presented in 1488 to the parish church of St. George the Martyr, Exeter.[32] Grants of denization continued to be made to Welshmen, with a clause enfranchising them from the penal enactments under Henry IV. Henry's accession to the English throne only accelerated the double process that had gone

[26] *Cal. Pat. Rolls* (1485–94), pp. 31, 86, 99, 174. [27] *Ibid.*, p. 268.
[28] Leland, *Collectanea*, iv. p. 267. [29] *Arch. Cambrensis*, 1919, pp. 233 ff.
[30] *Cal. Pat. Rolls* (1485–94), p. 131; cf. *ibid.* (1494–1509), p. 254, reference to Walter Griffith of Burton Agnes, sometime sheriff of York.
[31] Pollard, *Reign of Henry VII*, i. p. 185.
[32] *Cal. Pat. Rolls* (1494–1509), p. 586; *ibid.* (1485–1494), pp. 79, 252.

on for centuries—the settlement of Englishmen in Wales and, more especially, the settlement of Welshmen in England. A noteworthy immigrant was David Cecil, who, according to the tradition recorded by Burghley, went from Raglan with Henry VII, entered his service as yeoman of the guard, and ultimately exchanged his yeoman's halbert for a serjeant's mace. He settled in Northamptonshire, where he became a mayor, a sheriff, and an escheator. His elder son, Richard, was made page of the crown and yeoman of the robes, and married a widowed Lincolnshire heiress, by whom he had a son William, afterwards Lord Burghley.[33] In the sixteenth century Welshmen crossed the Severn as willingly as Scots in the seventeenth and succeeding centuries crossed the Tweed. There were not many who, when invited to Court, would have answered as did Richard ap Howel, Lord of Mostyn : 'I dwell among my own people.'[34]

At a time when many Welshmen were settling in England, those who remained at home were likely to feel with special acuteness the disabilities under which they laboured. In North Wales, owing to the decay of tribalism and the rise of an industrial class, the old Welsh customs connected with land tenure were regarded as burdensome. Many of the dues had been commuted for money, and, as their origin was partially or wholly forgotten, they were apt to seem merely irritating exactions. In South Wales tribalism had decayed much earlier owing to the effects of the Anglo-Norman Conquest.[35] Not till his reign was nearing its close did Henry take steps to remedy the grievances of his North Welsh subjects. Between 1505 and 1507 he issued several important grants to the inhabitants of (1) Bromfield and Yale (1505), (2) Chirk and Chirkland (1506), (3) Denbighland, etc. (1506), (4) Kery (Ceri) and Kedewen (Cydewain).[36] The inhabitants of Bromfield and Yale were granted power to acquire lands and tene-

[33] O. Barron, *Northamptonshire Families*, pp. 22–3.

[34] At Mostyn Hall Henry Tudor had nearly been captured by the officers of Richard III ; he escaped through a window (afterwards called the King's Hole) just in time. He joined Henry at Bosworth with a large force, and after the victory received from him the belt and sword he had won that day. E. Parry, *Royal Visits and Progresses to Wales*, p. 295.

[35] See Rhys and Brynmor Jones, *The Welsh People*, ch. ix., History of Land Tenure in Wales ; also *Report on the Royal Commission on Land in Wales and Monmouthshire* (Parl. Paper, 1896, C. 8221), especially Appendix to vol. v. of the Minutes of Evidence.

[36] *Cal. Pat. Rolls* (1494–1509), pp. 434, 464–5, 471, 523–4.

ments in England or in English towns in Wales and to hold the office of sheriff, mayor, bailiff, constable, etc., notwithstanding the Act of 2 Henry IV ; they might also become burgesses of any English town in Wales. Lands in the lordship held in gavelkind (*i.e.* partible) were now to descend according to the common law of England (*i.e.* to the eldest son). Tenants were to be exempt from serving as raglaw (or raglot) or ringild [37] or steward, and were freed from sundry exactions such as ' treth lles ' (traeth llys) or reparation of the manor house.[38] Certain other exactions and customs such as ' traeth melen ' or mill-pennies were to be for ever abolished. The grant to Chirk and Chirkland is more comprehensive ; it includes permission to take goods to all places without the lordship and exemption from payment of tolls within the lordship upon goods sold outside it. Tenants are to be discharged of all tolls within the lordship, as the burgesses of Chirk are. They are to have common of pasture in certain forests. Tenants and inhabitants of the commotes of ' Kynlleyth ' and Mochnant are not to be compelled to serve as ringild (apparitor) nor to do suit at the mills of the lordship nor at the court of Chirk. In the case of intestates the disposal of the goods of the deceased is to rest wholly with the ordinary of the place to the use of the heirs of the next of kin. Certain customs or exactions, twenty-five in all, are to be abolished ; of these six are also mentioned in the grant to Bromfield and Yale. One of them is ' twng '—*i.e.* ' tunc,' or tribute—a word which is preserved in the Dunks at Wrexham.[39] The original grant to the inhabitants of Chirk and Chirkland has been preserved among the Puleston MSS.,[40] together with a letter from the King to the receiver of the lordships of Bromfield and Yale and to Mr. Edwards, deputy constable of the castle of Chirk. This recites that the inhabitants of Chirkland have given 1000 marks for privileges granted by letters patent and that some of them have paid: the King authorises his officers to levy the rest, trusting in their ' sadnesses and wisdomes.'

[37] For these offices see *Survey of Denbigh*, ed. Vinogradoff and Morgan, pp. lxxiv ff. (section by Mr. Arthur Jones).

[38] For many of the services mentioned in these grants, see A. N. Palmer, *History of Ancient Tenures of Land in the Marches of North Wales*, p. 129, etc. In the *Cal. Pat. Rolls* (1494-1509), p. 434, ' treth lles ' is wrongly explained as ' repair of manors.'

[39] A. N. Palmer, *op. cit.*, p. 110.

[40] *Hist. MSS. Comm.*, 2nd Rep. App., p. 66.

The grant to the King's tenants of Denbighland is closely modelled on that to Chirk. It is a notable document, for the last of the witnesses is 'Edmund Dudeley esquire president of our council.'[41] Hitherto it has not been known that Dudley held this office. He witnessed the grant to Chirk, but appears in the summary of that document as 'Edmund Dudley esquire.' The suggestion has been made that Dudley may have been president not of the King's council, but of the council of Wales (or the Marches). Against this is the fact that in 1502 (only four years earlier than the Denbighland grant) Bishop Smyth is definitely mentioned as 'president of the council in the principality of Wales.'[42] He was certainly living in 1506, and there is no trace of any evidence that he was replaced by Dudley. Also, the Council in the Marches is never called 'our council' without further specification. The last of the four documents is an *Inspeximus* and confirmation to the tenants and inhabitants of Kery (Ceri) and Kedewen (Cydewain) of two charters granted by 'Richard late duke of York.' The first (dated from Montgomery Castle, August 31, 25 Hen. VI) granted to the tenants of the lordship of Kery release from certain amercements, customs and services, and a pledge that accustomed fees shall not be increased. A charter of the same date manumitted, for 1000 marks paid down, the said bondmen of either sex and the whole of their issue from the yoke of servitude, so that they 'enjoy the same freedom as other free men.'

The result of throwing the English boroughs of North Wales open to Welshmen was to offend the burgesses of the three walled towns of Conway, Carnarvon and Beaumaris. They petitioned Henry that the Welshmen of Merioneth might be satisfied with the boroughs of Rhuddlan, Denbigh, Harlech and Bala, those of Carnarvonshire with Bangor, Pwllheli, Criccieth and Nevin, and those of Anglesey with Newborough, 'all and each of which boroughs are of as great liberty as any of the three English towns.' Clearly in these nine boroughs racial qualification for burgess-ship had been abolished. Just at the end of Henry's reign injunctions were issued in favour of the three walled towns, but the variance

[41] The *Cal. Pat. Rolls* (1494–1509), p. 471, gives 'president of the council,' but the original is 'presidens concilii nostri' (*Bulletin of the Institute of Historical Research* No. 1, June 1923, p. 30).

[42] *Cal. Pat. Rolls* (1494–1509), p. 295.

between the English and the Welsh continued into the reign of Henry VIII. The essential point is that the Welsh now wanted to live under English law, whereas at the beginning of the fourteenth century they had clamoured for the strict observance of the old Welsh law.[43]

The partial removal of Welsh disabilities in the last years of the reign of Henry VII prepared the way for later economic development. Hitherto since the Anglo-Norman conquest the Welsh had suffered from inequality of commercial privilege. Wales and England were economically interdependent, and the smaller and poorer country was the one to suffer from the restrictive policy that prevailed. The chief Welsh products in the fifteenth century were cattle and sheep. During the Hundred Years' War Welsh cattle had been sent to Calais.[44] The accounts of Sir John Howard (1462–9) show that Welsh cattle were sought after by English buyers :

'1463. M^{d}. that my mastyr and Necolles Raklef bowte xxxiij oxsys at the town of Wryxham in Walys. (The cost was £18 7*s*. 0*d*. and 10*s*. was paid for bringing them to Stoke by Nayland in Suffolk.)

'1463–4. Iteme, my lord Staford of Southwerke hathe given me xij Walsche kewes. I have theme.' [45]

An interesting light on Welsh cattle-raising in the late fifteenth century is given by the will of David ap Meuric Vychan of Nanney in Merionethshire, dated September 17, 1495. It begins with money bequests of the usual kind, to a monastery, to sundry churches and friars and so forth, but most of the bequests are in kind, *e.g.* 'Item lego Engharad filie mee tota grana mea existentia in oreo (*sic*) meo.' Angharad was also to receive all his beasts in the custody of certain specified persons, to serve as her dowry if she married according to the advice of her friends and relations ; otherwise they were to go to her brother Howel. Another daughter was to have 60 beasts in the custody of Robert ap Meredyth. In all, six daughters had bequests of cattle.[46]

In the later Middle Ages there was a considerable development of sheep-farming in Wales and the Marches. But the wool was of poor quality ; sometimes it was fraudulently

[43] E. A. Lewis in *The Mediæval Boroughs of Snowdonia*, pp. 267 ff.
[44] Wylie, *Henry V*, i., p. 39, n. 4. *Cal. Pat. Rolls* (1416–22), p. 48.
[45] *Manners and Household Expenses* (Roxburghe Club), pp. 184, 232.
[46] *Arch. Cambrensis*, Original Documents, i. p. cxliii.

substituted by English exporters for good wool.[47] The staple town for Welsh wool was Carmarthen, but licences for exportation from other ports were occasionally granted. A Cardiff merchant was allowed in 1460 to ship 10 sarplers of Welsh wool in the ports of Weymouth, Poole or Wareham to any foreign port in order to make money to ransom his father, who had been captured by the King's Breton enemies.[48] As the production of wool increased, there was an increased manufacture of rough cloth,[49] which under the statute 1 Hen. IV, c. xix., was exempted from the obligation of being sealed and of paying subsidy. By the statute 4 Ed. IV, c. i., cloth made in Wales or Ireland was exempted from the prohibition that no foreign cloth should be brought into England to be sold. The cloth that was not needed for domestic use was sold, partly at fairs in Wales, partly in the Marches and also at Bristol. A considerable amount found its way by land to Southampton, whence it was exported on board the Florentine galleys.[50] Much came to London, for the customs accounts show that considerable quantities of 'pannus Wallie' were exported by the Hanse merchants[51]; among other purposes it was used for making shoes. Some went to Lynn,[52] but in Henry VII's reign the chief port for Welsh cloth was undoubtedly Bristol: the account for 8–9 Hen. VII shows that it was exported to France, Spain, Portugal, and Iceland[53]; it may be noted that the collectors' names were John Walssh and Richard Amerik (ap Meredith). When the satirist Crowley denounced forestallers, he wrote:

> 'The fryses of Walis
> to Brystowe are brought;
> But before thei were wouen
> in Wales they are bought.'

The reign of Henry VII was for England a time of much

[47] *Cal. Pat. Rolls*, Ed. III (1345–8), p. 115. [48] *Cardiff Records*, iii. p. 20.

[49] For the Welsh cloth industry in the Middle Ages and the early sixteenth century, see E. A. Lewis, 'Mediæval Boroughs of Snowdonia,' *Trans. Roy. Hist. Soc.* (1903), pp. 151–161, and *Y Cymmrodor* (1913), pp. 86 ff. For the industry in the sixteenth and seventeenth centuries see an article by the present writer in *Arch. Cambrensis*, December 1922.

[50] *Southampton Port Books*, ed. P. Studer (Southampton Rec. Soc.), pp. xxii, xxix, 51, 104, 108.

[51] Gras, *The Early English Customs System*, p. 476. [52] *Ibid.*, p. 543.

[53] P.R.O. Customs Accts. Exch. K.R., 20/9. In the details of the cargo of the *Nicholas de Toure*, bound for Lisbon in October 1492, 58 out of 173 entries refer to Welsh cloth.

maritime activity, in which Wales had some share ; for by the navigation law of 1489 wines of Gascony and Guienne were to be imported only in English, Irish and Welsh ships. Wales possessed then no port of any great size. Still, at the beginning of the fifteenth century Henry IV had called upon eleven towns in Wales to build barges and balingers,[54] and in Henry VII's reign a Welshman of Gloucester, David Vaughan, received for the encouragement of shipping a grant of customs dues from the merchandise imported into Bristol in January 1501 in a ship of 100 tons or more which he had built.[55] Carmarthen, Cardiff, Haverford, Tenby, Neath, and Chepstow were the chief ports of South Wales. In the north the chief port was Beaumaris, which was sometimes visited by foreign traders, especially Bretons, who brought French wines, Spanish iron, fruits, pitch and a few foreign luxuries. Carnarvon was so insignificant that no foreign ship called there for years together. The Welsh ports were used mostly for coast trade, for sea fisheries, and for trade with Bristol and with Ireland.[56] Earlier in the century they had often been the haunts of pirates, as we may gather from a chance statement that pirates took a balinger from Waterford to Milford Haven and thence to Padstow.[57]

Something may be said as to various other sides of Welsh economic life. Many Welsh towns had a merchant gild : there is some evidence of the existence of craft-gilds, *e.g.* a gild of Glovers and Cordwainers had existed at Cardiff from the reign of Edward II[58] ; Fuller wrote that 'the Cappers' chapel at Monmouth doth still remain, being better carved and gilded than any part of the church,' and it is probable that gilds now forgotten once existed in several other towns. Fairs played a very important part in Welsh life : George Owen in 1601 enumerated 233 in the year.[59] A Minister's Account for 1492 records the expenses of the coroner and his servants at six fairs in Glamorgan for preserving good rule therein.[60] Mining in Wales was unimportant in the fifteenth century and long

[54] *Foed.* viii. p. 172.

[55] *Cal. Pat. Rolls* (1494–1509), p. 270.

[56] E. A. Lewis, 'A Contribution to the Commercial History of Mediæval Wales,' in *Y Cymmrodor*, xxiv. (1913).

[57] *Cal. Pat. Rolls* (1452–61), p. 120.

[58] *Cardiff Records*, iii. pp. 336 ff. Brecknock had several gilds.

[59] G. Owen, *Taylor's Cussion*, facsimile edition, ii. 57–61, and *cf.* i. pp. 74–82.

[60] *Cardiff Records*, i. p. 171 (P.R.O. Duchy of Lancaster Records, Ministers' Accts., Bundle 635, No. 10334).

afterwards, though in 1486 Henry appointed various persons as commissioners of his mines in England and Wales ; among them was Henry Vanorle, ' merchant of Colayn.' Early in the fourteenth century German miners had been employed in the copper mines of Dissard in Englefield, but the value of the copper produced did not suffice for their wages, and they were soon discharged.[61] Means of communication can hardly have been anything but bad. Probably no good roads had been made in Wales since the days of the Romans. The state of the roads in the Marches may be gathered from the description of Prince Arthur's funeral procession : ' On St. Marke's Day the Procession went from Ludlow to Bewdley. It was the foulest cold windye and rainey Daye and the worst waye that I have seene ; yea, and in some Places they were faine to take Oxen to drawe the Charre, so ill was the waye.'[62]

A Minister's Account printed in the ' Cardiff Records ' records a payment of 8*d.* for the making and carriage of two hurdles ' for placing in the broken roads where the aforesaid hay might be carried.'[63] Some bridges had doubtless been built by or for the Cistercian monks, *e.g.* the Devil's Bridge is said to have been the work of the monks of Strata Florida. Pennant relates that Pont y Pair, the bridge over the Llugwy (not far from Dolwyddelan in Carnarvonshire), was begun by Howel, a mason ; he had already built, at his own expense, a bridge over the Lleder, having found his passage obstructed by floods when he was on his way about the year 1468 to attend the assizes at Conway.[64]

On other sides of the national life there was less of English admixture than on the political and economic, though there was some everywhere, even in language. When Guto'r Glyn thanked the Abbot of Valle Crucis for a sword and buckler, he called the gift ' prickswng y siop o Wrecsam,' the pricksong of Wrexham's shop. The Church in Wales at the end of the fifteenth century was completely Welsh in sentiment. The Episcopal Registers of St. David's (the only surviving Registers for the period for Wales) show a large number of Welshmen among those who were ordained. Two of the bishops of St. David's during Henry VII's reign were Welsh:

[61] *Accounts of the Chamberlains of Chester*, ed. Arthur Jones (Flintshire Historical Society, 1913), p. 95.

[62] Leland, *Collectanea*, v. p. 377.

[63] *Cardiff Records*, i. p. 190 (1492).

[64] Pennant, *Tours in Wales*, ed. Rhys, ii. p. 292.

John Morgan and Edward Vaughan. St. Asaph likewise had two Welsh bishops. The bishops of Bangor and Llandaff were Englishmen. Bishop Dean of Bangor did good work in recovering lands wrested from his see and in restoring his cathedral : when he was translated to Salisbury, he left to his successor his valuable crozier and mitre on condition that he completed the work of restoration. Henry's reign saw much achievement in the way of church rebuilding. Not only did Jasper Tudor build a tower for Llandaff, but Bishop Redman restored the episcopal palace of St. Asaph, which had lain in ruins for eighty years. Bishop Salley of Llandaff built a palace at Matherne, and in North Wales many churches were restored.[65] Especially noteworthy is the erection in 1507 of the fine tower of Wrexham church, one of the 'seven wonders of Wales.' On the north side there is a statue of St. James of Compostella, patron saint of Spain, which was probably placed there in honour of Catherine of Aragon. The interest shown in this building is seen in the bequest of a Chester felt-capper, who left 40*s*. 'to the makinge of Wrexham steple.' Fynes Moryson, writing early in the seventeenth century, speaks of the town as 'bewtified with a most faire Tower, called the Holy Tower and commended for the musicall Organes in the Church.' In spite of iconoclasts and restorers many Welsh churches still preserve their beautiful chancel screens and timber roofs and Perpendicular windows dating from the late Middle Ages. The Welsh clergy were mostly poor, for many livings had been appropriated to monasteries, some of these being alien priories, whose revenues passed to the Crown.[66] A statute entered in one of the St. David's Registers speaks of the 'numerous appropriations and unions of benefices or churches of our diocese made in disregard of the order of right by our predecessors before these times whereby the sustenance of the sowers of the Divine Word is taken away and want evidently increases every day among our subjects, to the detriment not only of our cathedral church but also of our whole diocese of St. David's.' [67] An interesting feature of the Registers is the occasional mention of a long list of patrons of a church ; Whitechurch in Kemes (Cemais) had twenty patrons,

[65] Newell, *History of the Welsh Church, passim.*

[66] In some cases the revenues of Welsh churches passed to new foundations, *e.g.*, those of Goldcliff to Eton, of Llangenith and St. Clears to All Souls' College, of Craswall to Christ's College.

[67] *Episcopal Registers of St. David's*, ii. p. 661.

one being a woman. Of Welsh monasteries in the fifteenth century not much can be said. As in England, so in Wales, the great days of monastic houses were over, but bequests were still made to them, if the above-mentioned will of David ap Meuric Vychan may be taken as typical : it includes a bequest to the monastery of Kymmer (Cwmhir), as well as to the friars of Bangor and Llanvais, and to the hospital of St. John Baptist for the glazing of a window. Welsh nunneries were few ; this was partly due perhaps to the disturbed condition of the country. In Henry VII's reign there were only three : Usk[68] (Benedictine), Llanllugan and Llanllyr (Cistercian) ; the last named was a cell of Strata Florida.[69] Mention should be made of the Knights of St. John, whose hospices provided travellers with food and lodging : one of these at Bridgend is in a good state of preservation and is still inhabited. Much might be said, did space permit, of pre-Christian survivals, of the reverence paid to holy wells and holy tapers, and to famous images such as Derfel Gadarn which, men said, would one day burn down a forest—a prophecy supposed to be fulfilled when it fed the flames by which Friar Forrest was burned. Pilgrimages were as common in Wales as elsewhere : places of much resort were St. Winifred's Well and Bardsey Island, where twenty thousand holy men were said to be buried. Two pilgrimages to St. David's were counted as the equivalent of one to Rome ; three such ranked with a journey to the Holy Sepulchre. The pilgrim who, nearing his goal, toiled over the sixteen miles and seventeen hills between Haverford West and St. David's would not think he had got off too cheaply. Friars still roamed round the country, carrying with them images of saints, which they exchanged for cheese and bacon and corn; the image of St. Seiriol, they averred, would cure diseases, and that of St. Curig would drive an evil spirit from a farmstead. In the Grey Friars' church at Carmarthen both Edmund Tudor and Sir Rhys ap Thomas were buried : but the remains of the former were removed to St. David's, and the tomb of the latter is now in St. Peter's, Carmarthen. Two other

[68] For some interesting details as to Usk, see E. Power, *English Mediæval Nunneries*, pp. 223–4, 230, 232, 348, 350.

[69] J. E. B. Lloyd, *History of Wales*, ii. p. 603 ; *Valor Ecclesiasticus*, iv. pp. 397, 456. Details respecting several monasteries in Wales are to be found in *Arch. Cambrensis, passim*, see General Index ; also in the volumes of the *Commission on Historical Monuments in Wales and Monmouthshire*.

notable tombs at Tenby may here be mentioned, those of the Whites, both of them mayors of the town ; the elder, Thomas White, helped Henry Tudor and his uncle Jasper to escape from Tenby to Brittany after the defeat of Tewkesbury.

If the Church of fifteenth-century Wales was on the whole national, much more so was her literature. Henry VII's reign fell within the golden age of Welsh poetry ; the men of his day had on their lips the songs both of earlier poets such as Dafydd ap Gwilym and of contemporaries such as Guto'r Glyn. There was much religious poetry too, in praise of the Virgin and the Saints, and the sacred images of Aberystwyth and Carnarvon and Chester. Bards and triad-writers were active as ever. In a word, Wales had a vigorous poetic life, while England had—Skelton.

With regard to the schools of mediæval Wales [70] it is difficult to speak in much detail. There were schools attached to Welsh cathedrals and to collegiate churches. Some evidence exists for schools in towns ; the Episcopal Registers of St. David's contain an interesting reference to the appointment of master of the schools at Haverford. It is stated that the right of conferring grammar schools in the city and diocese of St. David's belongs to the Bishop, who appoints Richard Smyth, M.A., chaplain in the church of St. Mary Haverford, as master. No one was to rule such schools in Haverford or elsewhere within a circumference of seven miles without obtaining a licence from Smyth. Gild schools probably existed in Wales as in England, and there was also the very noteworthy school of Oswestry, founded at the beginning of the fifteenth century by David Holbache, once the friend of Owen Glendower ; he ultimately took the English side and represented Shropshire and Shrewsbury in several parliaments. Glendower's dream of a University for Wales had to wait till the nineteenth century for its fulfilment : Welsh students in the fifteenth century still came up to Oxford, maintaining the character for unruliness that they had earned in the days of both Matthew Paris and Adam of Usk. It must be admitted, however, that they found at Oxford no very shining example of academic decorum, when in a riot between

[70] See L. Stanley Knight, 'Welsh Cathedral Schools to 1600 A.D.,' *Y Cymmrodor*, xxix. (1919) ; 'The Origin of the Welsh Grammar School,' *ibid.* xxxi. (1921) ; 'Welsh Schools from 1000 to 1600 A.D.,' *Arch. Cambrensis*, 1919 and 1920.

Northerners and Southerners (1411) three Fellows and a chaplain (Northerners) declared 'Quod vellent stare cum patriotis suis et pro eisdem pugnare usque ad mortem.' The valiant four climbed into Oriel College late at night; one of them went to the door of the Provost's chamber, woke him up with insulting language, and invited him to come out and have a fight.[71] Under such circumstances the Welsh would side with the Southerners, as in the days of Adam of Usk, when 'during two whole years there was great strife between the men of the south and the men of Wales on the one side, and the northerners on the other, whence arose broils, quarrels and ofttimes loss of life.'[72] A book that may well have been handled by some Welsh student preparing for Oxford has been preserved among the Puleston MSS. At one time it belonged to John Edwards, Receiver of Chirkland under Henry VII, who was also the owner and transcriber of the volume containing copies of letters of Bishop Beckington and Queen Margaret of Anjou, edited by Mr. Cecil Monro for the Camden Society in 1863. The Puleston manuscript is a manual of Latin grammar and composition: the young student is directed 'in how mony maner of wyse shalt thu to make latten and to construe.' Hexameters follow, giving the Latin names of ordinary things with their English meanings. The copyist evidently found this too elementary for his taste; at the end he adds the familiar tag:

> 'Nunc scripsi totum, pro Christo da mihi potum:
> Pro tali precio nunquam tibi scribere volo.'

A Latin treatise on orthography follows, which was transcribed, as shown by some doggerel lines at the end, by one John Fulleylove (Johannes plenus amoris). After more information on topics so incongruous as versification, confession and penitence, and the meaning of certain Latin words, some precursor of the 'direct method' gives common phrases in English and Latin, as for example, 'Haylle Sir, Avete domine.' Then come more pages devoted to grammar, followed by a calendar for 1481, a page for each month: this is written in the hand of John Edwards, whose signature is appended.[73]

[71] *Hist. MSS. Comm. Rep.*, 2, App. Oriel Coll. MSS., p. 147.
[72] *The Chronicle of Adam of Usk*, ed. Maunde Thompson, p. 147.
[73] *Hist. MSS. Comm. Rep.*, 2, App., p. 66.

It is now time to answer the question, What did Henry VII contribute to the union of England and Wales? Possibly the truest answer is the shortest—namely, himself. Because Henry was sprung from Welsh princes, the Welsh could regard him as their rightful king and no mere descendant of their conqueror. The *Italian Relation* goes so far as to say: 'The Welsh may now be said to have recovered their former independence, for the most wise and fortunate Henry VII is a Welshman.' He was careful not to throw away the advantage he possessed in his Welsh birth and upbringing. The dragon of Cadwaladr had waved on Bosworth Field. When the bearer of the royal standard, Sir William Brandon, was slain, it was a Welshman, Rhys Fawr ap Meredydd, who supplied his place. By the politic inquiry into the details of his pedigree, by dutiful observance of St. David's Day, by the kindly gifts 'to a Walshe man, that maketh rymes' or to 'the grete Welsh childe,'[74] by the grant to the Welsh nurse who had cared for him in his 'tendre age,' in all these ways and in many more Henry showed that his close ties with Wales were not forgotten. Welshmen came to England in such numbers that in the 'Merrie Tales of Skelton' it is recorded that a Welshman came to him at the King's court and said 'Syr, it is so that manye dooth come upp of my country to the Kyngs court, and some doth get of the Kyng by patent a castell, and some a parke, and some a forest, and some one fee and some another, and they dooe lyue lyke honest men.'[75] In the piecemeal fashion characteristic of English political development Henry VII did something to remove a definite grievance of the men of North Wales. Could he, we may ask, have done more for his Welsh subjects than he did? Welsh writers have often complained that he left many of their country's wrongs unredressed. If English writers have forgotten that he did anything for Wales, Welsh writers have tended to forget that he had much else to do. Up to the year 1497 Henry's position was insecure; if he had made any long stay in Wales, a Yorkist rebellion would assuredly have broken out in England. A pilgrimage to St. David's might have cost him his crown; he wisely preferred Walsingham. The grant of liberties to the Welsh at an early period of the reign

[74] S. Bentley, *Excerpta Historica*, Privy Purse Expenses of Henry VII, pp. 88, 97, 111.

[75] *Merrie Tales of Skelton*, ed. W. Carew Hazlitt, Jest Books, ii. p. 7.

would have aroused the hostility of the Border English, who had a long memory for cattle raids and for the devastation wrought by Glendower. The English view of the Welshman in the fifteenth century was certainly no more favourable—probably less—than that taken by Andrew Boorde in the sixteenth :

> 'I am a Welshman and do dwell in Wales,
> I have loved to serche boudgets and looke in males ;
> I love not to labour nor to delve nor to dyg ;
> My fingers be lymed lyke a lyme twyg ;
> And wherby ryches I do not greatly set,
> Syth all hys fysshe that commeth to the net.' [76]
>
> . . . . . .

As for the Welsh view of the English at the same period, it is best left in the obscurity of an unfamiliar tongue. Such national estimates are commonly unfair. When the English smile at the fondness of the Welsh for pedigrees, sometimes of doubtful correctness, they forget that forged charters from Arthur and Cadwaladr were once inscribed on the Great Register of the University of Cambridge.[77] And when the Welsh were taunted with their thieving propensities, they might have retaliated with the statement in the 'Italian Relation' that 'there is no country in the world where there are so many thieves and robbers as in England.' What Henry did was to wait till his throne was secure, till he had restored English prestige abroad, till he had paved the way for the ultimate union of England and Scotland. Then, and not till then, did he begin tentatively to initiate a new policy in Wales. It is possible that had Prince Arthur lived, more energetic action might have been taken in the Marches, which would have anticipated by a generation the work of Roland Lee. As things were, Henry left much to the healing influence of time. One characteristic trait may be mentioned. After Prince Arthur's funeral there was ordained a great dinner ; 'and in the morning a proclamation was made . . . that if any man could show any victuals unpaid for . . . that had been taken by any of that noble Prince's servants before that day, they should come and show it to the late steward,

[76] Andrew Boorde, *The Fyrst Boke of the Introduction of Knowledge* (E.E.T.S.).
[77] J. B. Mullinger, *The University of Cambridge*, i. p. 138.

comptroller and cofferer, and they should be contented.'[78] No more than common honesty, to be sure. But not every man will think of his debts when the light of his eyes has gone out.

Thus Henry VII through his descent, through what he did, and through what he refrained from doing, prepared the way for the Act of Union in the reign of his second son. This Act has been half forgotten by reason of its very success. But on one famous occasion it was recalled in the greatest speech of an orator who was also a political philosopher. In the speech on 'Conciliation with America' on March 22, 1775, Burke drew from the history of Wales support for his argument that the attempt to coerce the colonies could lead to nothing but disaster and ruin. If Henry VII could have come back to Westminster and listened to that magnificent rhetoric summing up the history of Wales from the reign of Edward I to the Union with England, what thoughts would have filled his mind? He would have agreed that 'Wales, within itself, was in perpetual disorder; and it kept the frontier of England in perpetual alarm.' But he knew his native country too well to have concurred in the orator's view that only *after* Henry VIII's legislation 'as by a charm the tumults subsided; obedience was restored; peace and order and civilization followed in the train of liberty.' With a shake of the head and a sad smile, maybe, he would have murmured 'It was not thus, my friend.' He would not have resented Burke's omission of his own name; he was not jealous of the son for whom he had toiled and saved. But with the serene wisdom of the dead he would have known that it takes more than one man or one Act of Parliament to heal ancient wounds and appease an immemorial strife. His own share in the achievement would have been forgotten by himself, as by others, in pride that at a crisis in the history of England, of the British Empire, and of the world, Wales could be instanced as a land where timely acts of political wisdom had wrought lasting good. Wales was now in very truth a buttress of England[79]; the loyalty he himself had proved had been continued to his successors. Burke's splendid period sank to its close with the Horatian picture of the calm that succeeds the storm:

[78] E. Parry, *Royal Visits and Progresses to Wales*, p. 298.

[79] *Pol. Poems*, ed. T. Wright (R. S.), ii. p. 187 ('The Libel of English Policy').

'. . . . . simul alba nautis
Stella refulsit
Defluit saxis agitatus humor :
Concidunt venti, fugiuntque nubes,
Et minax (quod sic voluere) ponto
Unda recumbit.'

With the last line of that remembered music the shade of the seventh Henry would have vanished, well content.

Caroline A. T. Skeel.

CARDINAL MORTON'S REGISTER

A REGISTER, says Dr. Johnson, is 'an account of anything regularly kept,' and he quotes in illustration the Palmer's eulogy of the Redcrosse Knight and the

> 'Late most hard atchiev'ment by you donne
> For which enrolled is your glorious name
> In heavenly Regesters above the Sunne.'

Our present concern is also with mundane acts, but the record is subject to terrestrial limitations, and its author or authors, as will be seen, to something of human frailty and imperfection. Yet the personality of the registrar, whose duty it is 'to preserve from oblivion by authentick accounts' the doings of more important people, is not a negligible factor in determining what registers will contain; and the idiosyncrasies of his clerks count for more than is often recognised. In Morton's Register we have the unusual advantage of being able to learn something of the people whose handiwork we are observing, and we can do so in what many would consider the dull record of a lawsuit.

On September 22, 1492, died Peter Courtenay, Bishop of Winchester, and on October 23 the Archbishop issued commissions for custody of the spirituality and administration of the diocese *sede vacante* in virtue of the prerogative of the see of Canterbury. Incidentally this involved the collection of the tithes of the churches of Estmens (East Meon) and Hamyden (Hambledon), which were assigned to the Bishop's table. But here the Prior and Chapter of Winchester objected. They challenged the Archbishop's claim not merely particularly but generally, and 'since it is notorious that the said Archbishop is in the realm aforesaid primate and powerful both in deed and in word and that none can be found that dare proceed or pronounce against him,' they appealed to Pope Alexander VI to entrust the matter

for settlement to one of the Auditors of Causes of the Sacred Palace. Accordingly Anthony Flores, U.I.D., prothonotary of the Apostolic See, referendary and chaplain of the Pope and one of the said Auditors, orders notice (May 16, 1494) to be served upon the Archbishop 'in his archiepiscopal hall' and upon others concerned in their dwellings, if safe access can be had. On December 10, 1494, 'in a certain lofty chamber within his manor of Lamehith,' the Archbishop, who replies as becomes a Cardinal, appoints six proctors to represent him in the Curia Romana. Flores next issues a commission to Thomas Hutton, Decr.Dr., Archdeacon of Lincoln, to take evidence, and on November 16, 1495, an appearance is entered for the Archbishop in 'a certain chapel called the Long Chapel' in St. Paul's. The 'provident man,' John Reed, Auditor of Causes of the Court of Canterbury, exhibits a mandate of procuration under the Archbishop's seal impressed in red wax hanging by a certain piece of the same parchment 'ut moris est in regno Anglie.' After this has been read 'in a loud and intelligible voice,' Master Reed alleges that there are certain documents and books supporting the Archbishop's rights under the direction and commandment of the 'venerable man,' Master Hugh Peyntwyn, LL.D., Commissary-General of the Archbishop in his Prerogative [Court] and that of his Church of Christ of Canterbury, and in custody of the 'discreet man,' Master John Barett, notary public and scribe of the Acts of the Archbishop and of his Commissary in his Prerogative [Court] and registrar and keeper of the register within the said most reverend Father's manor of Lambeth in the diocese of Winchester, in the Register place of the Prerogative [Court] of the Church of Christ of Canterbury, and 'in archiuis Cistis Scrineis Thecis' and public places there, and that without these the matter cannot be elucidated. The Archdeacon accordingly issues an enormous mandate, in which the whole of the previous proceedings are recited, to Master Wm. Potkyn to cite Dr. Peyntwyn and John Barett to produce these things in the presence of the parties at the Registry at Lambeth; and to this Richard Lychfeld, LL.D., Archdeacon of Middlesex, obligingly affixes his seal.

On December 2, 1495, at 10 A.M., Wm. Potkyn appears before the Archdeacon of Lincoln, sitting in Court in the Registry at Lambeth, and certifies service of one notice in

Dr. Peyntwyn's chamber at Lambeth on November 17, and a notice on the Prior and Chapter in the chapter-house at Winchester on the 20th. Wm. Manwood, monk, as he asserted, of Winchester, presents a proxy for his brethren dated November 29, and John Reed, 'ex superabundanti verbo,' again exhibits his proxy for the Archbishop. After the Archdeacon has administered an oath to the two scribes of his acts and to Dr. Peyntwyn and Master Barett, the last named 'display, produce, present and exhibit' certain *libri antiqui*, six in number, found in a certain 'antiquum Archiuum Scrineum Cista siue Theca' in the Registry. These, in order 'that all suspicion might be removed and equality preserved on either side,' are caused to be marked (*signari*) by the Archdeacon's scribes, together with the 'signatura' of Dan Wm. Manwood.

The first is the Register of Fr. John Pecham, sometime Archbishop of Canterbury (1279–92). It is identified by its title or beginning, and six documents are transcribed in the record as supporting Morton's case. The second is that of Robert de Winchelsey (1294–1313), and yields three documents.[1] The third, that of Walter Reynolds (1313–27), yields seventeen. The fifth is that of Simon de Langham (1366–68), from which eight are taken. The sixth is that of Thomas Arundell (1396–1414), 'son of the earl of Arundell, first Bishop of Ely, then Archbishop of York and after translated to the Church of Canterbury,' and the extracts made fill nearly two pages. We note in passing that nothing is produced which is earlier than Peckham, and that if Mepham, Stratford and Bradwardine (whose registers are not known to exist) are not mentioned, neither are Islep, Whittlesey, Sudbury or Courtenay, whose registers still remain.

We have said nothing as yet of the most remarkable evidence, that of the fourth book produced. It is described as 'liber vulgariter nuncupatus "le Calfys skynne"' and as containing 'acts and extracts of divers Archbishops of Canterbury in their times successively existing in their times done and registered.' An extract is given: 'Item vacante sede Winton. Archiepiscopus Cantuariensis Officialem suum de-

[1] The 'initium' given shows that in 1495 Winchelsey's Register began with the leaf now marked in a sixteenth-century hand 'fo. xvii.' A later hand has written on the guard-leaf 'This Record ys mytch owt of order and the first yeare of his consecracon abowt ye mydest of ye book.'

putabit ibidem qui durante vacacione huiusmodi cognoscet in omnibus causis motis et mouendis salua eidem Archiepiscopo omni alia ordinaria potestate sicut in omnibus continetur Registris.' Nothing could be plainer : if it be admitted, the real case of the Prior and Chapter falls to the ground. It is not surprising if we look with some curiosity for the book in question. Among the records deposited in the Library at Lambeth is a folio volume, like the Registers save that it is differently bound, and some might call it 'le piggys skynne.' It is known as 'Liber Albus' or 'Album Registrum,' and begins with extracts from the Registers stated to be made by Thos. Yale, LL.D., Chancellor of Archbishop Parker, in 1570. To this part belong 2 + 2 + 4 + 1 leaves. Then follow on darker and older 'vellum' 8 + 8 + 8 leaves, and the rest of the book is made up of blank leaves, probably of the same date as the first part. It is the middle section that attracts us, for it is either the 'extracta diversorum archiepiscoporum' of which we are in search or a copy of it. But the writing is of the fifteenth century, and in the margin a hand very familiar to students of Parker's Register has written 'Manus Magistri Barret quondam Registrarii, etc.' It is possible, but most unlikely, that the attribution is wrong : the person who made it had worked in the office under Wm. Potkyn when that worthy but not very efficient official had in his turn become Registrar, and he had seen Barett's hand again and again. But what are we to make of the position ? We may reject unhesitatingly the idea that Barett attempted to foist into the collection of books produced one of his own compiled for the occasion. The benevolent man does not make accusations of fraud unless all other hypotheses are excluded ; and in this case prudence marches with Christian charity, for the imposture would have been too dangerous to attempt. As a matter of fact, to judge from what is extant, the book produced contained nothing later than the fourteenth century and came chronologically fourth. Barett had made no addition.[2]

It was now necessary to prove in solemn form 'the existence of the Register place aforesaid and the authority of the same and the character and extent of the credit wont to be

[2] The additions on f. 35*b* relating to the fees of the Archbishop of Canterbury and the Bishop of Durham between Tyne and 'Tese,' Norhamshire, Redelintonshire, etc., are in a hand of the second half of the sixteenth century.

given to things found there.' And here our admirable law-suit becomes, at least to the writer, of fascinating interest ; for the clerks of the registry attend in the Long Chapel of St. Paul's on December 12 and 14, and their depositions tell us things otherwise unknown.

John Bell, born in the city of London and by apostolic authority notary public, aged 59 and over, has known the registry in its present place twenty-four years : before then it was opposite the dwelling-house of the Janitor, ' in the new work of the gate newly built.' For forty years he has been one of the clerks of the Register with Master Thos. Ford, and wrote some of the Acts in Archbishop Bourchier's Register, has made searches for people resorting to the Registry, and ' fides indubia ' was and is wont to be given to entries so found, as to writings public and authentic and preserved and found ' in locis publicis.'

John Emlyn, of the city of London, by apostolic authority, as he asserted, notary public, aged 61 +, has known the Registry over twenty years where it is : before then it was in ' a certain low chamber ' opposite the Janitor's house within the new gate. He has known as Registrars Masters Roger Malmesbury, John ' Bele,' and John Barett.

John Sheffield, notary by apostolic authority, dwelling in the city of London, aged 44 +, agrees with Emlyn as to the position and adds that for thirteen years he was servant (*serviens*) with Thos. Winterborn, Commissary of the Prerogative of Archbishop Bourchier, in whose chamber he saw the books and others brought from the Registry to be searched.

Wm. Maryner, citizen of London, ' literatus,' aged 50 +, deposes that the present Registry is situated ' on the right hand side within the entrance gate of the manor of Lamehith' and has been so for twenty years, and before that it was in ' a certain low chamber on the left hand side of the entrance gate opposite the Janitor's house newly constructed there.' It was accounted a ' public place ' and recourse had to it for copies. He has known Malmysbury, ' Beele,' and Barett as Registrars.

Thomas Forde, ' of Lamehith, dioc. Winton, notary public by imperial authority,' aged 62 +, has known the Registry in its present position for sixteen years : before that it was in a certain low chamber near the gate of the manor of Lamehith

where 'a new tower is now being constructed by the Lord Cardinal the present Archbishop.' He has known these places as the Registry over forty years, has been clerk there nearly that time, and especially under Roger Malmysbury made very many copies from the books produced.

The testimony is good, and incidentally we have learnt (or at least it seems a fair inference) that the great entrance to Lambeth, Morton's Tower, which remains as the most enduring material monument to his fame, is a composite building of which part at least is older than his time. The old Prerogative Registry remained in the right-hand tower, in the room that still bears its name, until the passing of the Probate Act (1857) deprived it of its functions and also of its contents, including, unfortunately, part of the Register of Archbishop 'Dene,' now at Somerset House.[3]

The next stage in the proceedings discloses a fact which, if it stood alone, some would declare to brand the whole record as a forgery, but which is not the least incredible at the time. The Archdeacon of Lincoln had addressed his citation to the Prior and Convent of the Cathedral Church of St. Swithun of Winchester as 'of the order of St. Augustine' instead of St. Benedict, and their proctor demands that a note be made. But this is not all. Nothing has been exhibited of later date than Arundel, who died in 1414. It is not a rash conjecture that some of the later registers had not yet been bound; and that of Cardinal Bourchier certainly had not. The registers were written then, as they are still, in separate quires, which may easily have to wait twenty years before being bound up, and in some cases for a longer period. Since the visit to the Registry on December 2 Barett had been causing further search to be made, and now, on the 14th, he produces 'quoddam pargameni quinternum,' containing the Acts of Morton's Commissaries during the Winchester vacancy after Courtenay's death in 1492—a record which is described as 'newly found.' We may marvel at the ways of an office which could mislay the record of the very period in dispute, drawn up less than three years before; but probably no one at the time thought it remarkable, and we ourselves are left with the more depressing reflection that this 'pargameni quinternum' never found its way back to its companions and is missing from the two volumes of the Register that

[3] Reg. Wills, *Blamyr.*

remain.[4] The record was admitted and the session adjourned till the 16th, when Peyntwyn and Barett again appeared and alleged that it had been absolutely impossible for them to furnish the copies of the records ordered on December 2 on account of the meeting of Convocation 'circa rempublicam ecclesie Anglie.' They were given till January 18 following. This variety of occupation and function of provincial officials is a fact constantly to be borne in mind, and the consequent pressure of work at certain times explains why there may not infrequently be found in diocesan registers documents relating to meetings of Convocation of which there is no trace in the provincial registers for the simple, if distressing, reason that no time was ever found for 'writing them up.'

It would be apart from our present purpose to pursue the East Meon case further, but attention may be called to the citation of other documents which include the record of proceedings during the primacy of Winchelsey nearly 190 years before, a grant of Edward II, the evidences produced on the Winchester side, and not least the depositions of old inhabitants of the parishes concerned.

II

Our previous survey will not have been waste of time if it has shown something of the circumstances of the compilation of Morton's Register and the men who made it. It consists of one whole volume and part of a second, which also contains *disiecta membra* not included in the volumes of Wm. Courtenay (1381–96) and Thos. Bourchier (1454–86), and a fragment of the register of Henry Dean (1501–3), Morton's successor. Of its 656 pages only 19¼, with abstracts of 6 more, are printed in Wilkins' 'Concilia'; so that, apart from an abstract of some others in Mr. Woodhouse's small 'Life of John Morton,' little account has been taken of those which are not testamentary documents.

The Register opens with six bulls of Innocent VIII (Rome, October 6, 1486). The first—for Morton's translation from Ely to Canterbury—is of some importance for the student of forms, and may afford some amusement to the

[4] It ought to have been bound up with ff. 78–93 of Reg. Morton I, the other portion of the proceedings during this vacancy. It cannot, as the extracts show, be identified with that section.

student of history. It is followed by the absolution from Ely, two bulls to the suffragans and to the vassals of the church of Canterbury, notifying the translation and enjoining obedience, with yet two more to the clergy and to the people of the city and diocese of Canterbury.[5] Then in the form of a 'Memorandum' of 13½ lines is drawn a little picture for those who have eyes to see.[6] On December 9, 1486, we are told, there was gathered in the chapel within the manor called 'Le Ely Inne' in the suburbs of London a considerable company. Among them are Master Robert Morton, clerk of the Rolls of our Lord the King, David William, Decr.Dr., Thos. Cooke, LL.D., Sir Edmund Mountford, and Master John Hervy, Canon of Hereford. Seated before the high altar is John Morton, elect and confirmed of Canterbury, and before him stands Dan Wm. Sellyng, S.T.P., the Prior of Canterbury. He has brought the 'vexillum' or Cross of the church of Canterbury, and after making one of the solemn addresses (*collaciones*) for the excellence of which he enjoyed a great reputation among his brethren,[7] he delivers it to the new Archbishop 'with all humility and reverence.' What it looked like, the modern student may perhaps see for himself in Holbein's famous picture of Warham at Lambeth, though that bears Warham's arms. Morton takes it humbly in his hands and kisses it: then he gives it to his cross-bearer to carry. Few of those present can have been entirely unmoved. Robert Morton was now holding the office which his uncle had held under Edward IV when he became Bishop of Ely seven years before, and his own advancement was assured. It was but twelve years since, in 1474, John Morton, LL.D., rector of St. Dunstan-in-the-East, had exchanged with Wm. Attyngham, Master of the Hospital of St. Bartholomew, Bristol, in the diocese of Worcester, and Rector of South Molton in the diocese of Exeter,[8] and but four years since David William, the Dean of Arches, had succeeded Attyngham.[9] For Dr. Cooke, Judge of the Court of Audience, and Master Hervy careers of further usefulness and advantage were opening up. Prior Sellyng could remember, as a monk of Canterbury, three Archbishops already, and probably as a boy the

[5] *Reg. Morton*, I. ff 1–3. [6] *Ibid.* f. 3. [7] MS. Lamb., 20, f. 243*b*.
[8] *Reg. Bourchier*, f. 111. St. Dunstan's had been collated to Morton, Oct. 11, 1472 (*ibid.* f. 106*b*).
[9] *Ibid.* f. 130.

magnificent Chichele as well, and he had still eight years to live. When Sellyng became a monk in 1446, Morton was a man of sufficient standing to be Commissary for the Chancellor of the University of Oxford,[10] an office which we may call that of Vice-Chancellor if we like, but with risk of misleading associations. He was still only subdeacon[11] when Sellyng had been two years a priest.[12] If the future biographer finds himself questioning, as he certainly will, whether Morton ever really held all the fourteen dignities with which Le Neve and Hardy credit him, he will still marvel, as Sellyng must have done, at the strange vicissitude of fortune which had raised to the seat of St. Augustine one who, as late parson of Blokesworth, had been attainted by Parliament in 1461,[13] and whose archdeaconry of Norfolk had provided a lucrative if temporary income for Lionel Wideville, brother of Edward IV's queen.[14] He had been pardoned in July 1471,[15] and in the following March had been granted the keepership of the Rolls of Chancery for life.[16] The mode of his accession to the see of Ely sadly scandalised the chronicler.[17] Bishop Gray died on August 4, 1478, and was buried on the 6th. On the 7th arrived a messenger of the King ordering the monks to proceed at once to an election and to elect Master John Murton, LL.D., Clerk of the Rolls. On the following day, 'non habita licentia domini Regis eligendi episcopum,' he was 'elected by us *quasi per viam Sancti Spiritus*, non habito processu eligendi sed potius ad instantiam Regis'—an observation which may not be without enlightenment to those accustomed to attribute all anomalies of ecclesiastical procedure to the Reformation. The Pope's Bull of Provision was not issued till Christmas Eve, and Morton was consecrated at Lambeth by Archbishop Bourchier[18] on January 31, 1478/9, though there is no record of the fact, nor of any of the

[10] *Munimenta Academica* (Rolls Series), ii. p. 552.

[11] As subdeacon he became Prebendary of Writelington and Fordington in Sarum Cathedral, November 8, 1458, according to Henry Wharton's note from Richard Beauchamp's Register (MS. Lamb., 590, f. 129).

[12] Sellyng was ordained acolite in 1447/8 (*Reg. Stafford*, f. 202), subdeacon 1449 (*ibid.* 203*b*), deacon 1450 (*ibid.* 204*b*), and priest 1456 (*Reg. Bourchier*, 135*b*). He became Prior in 1472.

[13] *Rot. Parl.*, v. p. 477; cf. *Rot. Pat.* 5 Edw. IV, pt. 1, m. 13.

[14] *Rot. Pat.* 7 Edw. IV, pt. 2, m. 15.

[15] *Rot. Pat.* 11 Edw. IV, pt. 1, m. 22.

[16] *Rot. Pat.* 12 Edw. IV, pt. 1, m. 15.

[17] *Hist. Eliens.* in Wharton, *Anglia Sacra*, i. pp. 673–4.

[18] *Ibid.*

relevant documents, in the provincial registers.[19] In 1478 also he had become Chancellor and retained the office as Archbishop. While the Register shows no trace of such activity, a comparison of what is known from this and other ecclesiastical sources as to the movements of the Bishop of Ely or the Archbishop of Canterbury with the documents issued by him under the Great Seal will suggest that, at any rate in some cases, the place inserted by the clerks in the Letters Patent is determined by the whereabouts of the Chancellor rather than of the King. On September 20, 1493, he was created Cardinal Priest of the Holy Roman Church of the title of St. Anastasia,[20] and on September 15, 1500, he died.

III

Of the records of Morton's administration as Archbishop only a small portion can be mentioned, and the fact that many of great interest must be omitted may strengthen a plea for the publication of the Register. As first in importance may be selected two bulls of Innocent VIII (April 1, July 22, 1486) in confirmation of the marriage of Henry VII and Elizabeth, eldest daughter of Edward IV, though related in the fourth and fourth degrees of consanguinity and possibly of affinity. The motive of the dispensation is stated frankly to be the removal of the feuds between Lancastrians and Yorkists, according to the office committed to the Pope of taking measures for preserving the amenity of peace and quietness between Catholic princes and their vassals and subjects. It has been granted by James, Bishop of Imola, *legatus a latere* in England and Scotland, but, from the second bull, the King and Queen seem to have deemed further confirmation desirable, probably for a technical reason. A further bull (May 17, 1488) is directed, like the first, in strong terms against those who disturbed so happy an arrangement, especially in Ireland.[21] With the documents that follow we

[19] Bentham's *History of Ely* (1771) gives a most curious account, from a Harleian MS. (3721), of his enthronement at Ely, which shows that at Ely, as at Salisbury, nothing was known of the 'delightfully mediæval' custom of shutting the door in the face of a new bishop.

[20] So Godwin, *De Praes. Angl.* Cardella, *Memorie . . . di Card.* iii, p. 249, says August 21, 1493.

[21] *Ibid.*, ff. 17–18, an entry which has a further interest: On January 15, March 3, 1486/7, Morton had issued commissions to Thos. Cooke, LL.D., and to him with Humfrey Hawardyn, LL.D., jointly and severally as Auditor of the Court of Audience, the terms of the patents showing that the office is not that of an 'examiner'

shall deal later, but the reference to Irish affairs may supply a connecting link with another class of records.

Five meetings of Convocation at least are known to have been held in Morton's primacy, but of only two do we find any account in the Register. The first[22] was opened on February 13, 1486/7, by the Archbishop in St. Paul's with a Mass of the Holy Spirit, followed by a Latin sermon in the Lady Chapel by Wm. Grasonn, M.A., who took for his text 'Why stand ye here all the day idle?' On the 16th, in the Chapter House, Morton 'elegantly expounded' the cause of the Convocation, and the clergy, being then bidden to withdraw to the Lower House, elected Dr. Thos. Cooke as their prolocutor. On the 17th, after a long discussion by the bishops upon reformation in the Church, a kind of open session was attended by the clergy and the mayor, aldermen, and sheriffs of London, wherein Wm. Symonds, priest, aged 28, confessed that he had taken the son of a certain 'Orginmaker' of the University of Oxford to Ireland, where he passed as the Earl of Warwick, and that he himself was later with Lord Lovell in 'Furnesfelles.' The Archbishop asked the mayor and sheriffs to take Symonds to the Tower, because he himself had another of his company and only one prison at Lambeth. A conference of bishops and clergy followed, in which Morton called attention to abuse of their privileges by the Order of St. John of Jerusalem, and the violent language of preachers at Paul's Cross in the presence of the laity, 'qui semper clericis sunt infesti.' On the 19th it was notified to the Archbishop that 'nobiles et prepotentes domini de consilio domini nostri Regis'[23] were in the church and

but of a Judge as deputy and commissary of the Archbishop. In the present record the Archbishop himself is sitting judicially (*in quadam interiori camera infra Manerium de Lamehith . . . pro tribunali Judicialiter sedens*) and Dr. Cooke, his Auditor, appears to exhibit on behalf of the king 'litteras Apostolicas more Romane Curie cum filo rubei et crocei colorum sigillatas,' that after confirmation of their genuineness copies may be made by a notary for circulation. As in a similar case (March 9, 1488/9), before the Archbishop in person, 'in quadam bassa perlura,' at Lambeth where the letters of John de Gyglis Papal collector are similarly attested and copies made (*ibid.* ff. 18*b*–21), equally with one before Archbishop Parker sitting 'in quodam alto deambulatorio' at Lambeth 'judicialiter et pro tribunali,' on April 26, 1563, to try the validity of a marriage (*Reg. Parker*, I. ff. 242–4; Canterbury and York Society, pp. 406–15), it seems a fair inference that the sessions are sessions of the Court of Audience, and that the 'deputation' in the patents was not held to supersede the Archbishop's right to sit in person if he wished. In such cases the Court met in Lambeth itself instead of in Lambeth parish church, as it usually did at this time when the Auditor was presiding.

[22] *Reg. Morton*, I. ff. 33–36.

[23] A late sixteenth century hand has entered in the margin 'Regis Conciliarii.'

wished to see him. Being introduced, Sir John 'Deneham,' Treasurer of England, thanked the bishops and clergy for their 'benevolences' and prayers, and explained the King's great need for money; and then, in the presence of them all and of the mayor, aldermen and sheriffs, and many more, the Earl of Derby brought in Edward Earl of Warwick, son of the Duke of Clarence, who was made by Morton to stand in front of him so that he might be seen by every one[24]: after which the nobles departed, leaving the lad with the Archbishop, who took him, on rising, to Lambeth. The chronology of what follows shows that either the scribe has omitted some days or become hopelessly confused. The preachers at Paul's Cross were dealt with, the London priests bidden to take their commons twelve or thirteen together, to get their hair cut (*quod dimittant suos longos crines*), and to dress themselves in robes (*togae*) not entirely open, and an ordinance was passed to regulate the funerals of bishops. Finally, on the 26th, the Prolocutor appeared with four schedules.[25] The first granted to the Archbishop a subsidy of 6*s.* 8*d.* from all chaplains, regular and secular, exempt and not exempt, of any order (even mendicant), status and condition, who received annual stipends of 8 marks or 'esculenta et poculenta' with a stipend of 4 marks: if they receive 10 marks, then 20*s.*, and so in ascending (but unspecified) scale. Persons excepted are (*a*) minor clergy of cathedral and collegiate churches bound to service; (*b*) any who between March 11, 1484/5 and the dissolving of this Convocation have been indicted by the lay power for felony, etc.; (*c*) poor chaplains studying at Oxford and Cambridge, and any religious living in cloister or 'studium' under regular observance without external support; (*d*) chaplains decrepit or aged; (*e*) priests maintaining a parent at their own charges. There are further grants, *e.g.* from chantries, hospitals, free chapels, and parish churches not having parishioners, of 6*s.* 8*d.* if of the value of 8 marks, of 13*s.* 4*d.* if of 10 marks, 20*s.* if of £10, and so in ascending (unspecified) scale, with numerous exceptions. The second and much

[24] One of my predecessors, perhaps the learned Colomesius, has written in the margin 'Lambert Symnal,' but there can be little doubt that it was the real earl who was produced. According to Polydore Vergil (*Hist. Anglica*, Lib. xxvi.) he was shown in public on a Sunday; if so, probably on the 18th.

[25] This and all that follows is omitted by Wilkins, *Concilia*, iii. pp. 618 f., except that he gives the fourth schedule as preserved in the Register of Alcock, Bishop of Ely.

shorter schedule grants a tenth to the King. The third and fourth were never transcribed in the Register, a space of $3\frac{1}{2}$ folios being left blank for them. The third was an ordinance of Archbishop, prelates and clergy establishing the observance of the Feast of the Transfiguration with nine *lectiones* on August 7; the fourth related to the correction of the clothes (*indumenta*) and life of priests.

The second Convocation of which a full account is given[26] was begun on January 14, 1488/9, and 'continued' to October 23, 1489. We are shown the Archbishop making the voyage in his barge from Lambeth (*navigacione facta in navicula sua*) to 'le Powlys Warffe' and proceeding to St. Paul's, where, after a Mass celebrated by his nephew, Robert, now Bishop of Worcester, the bishops and other prelates proceeded to the Lady Chapel, where Thos. Maddes, S.T.B., preached a sermon on the text, 'Translato sacerdotio necesse est ut legis translacio fiat'—we may well wonder what he made of it. At the next session (Jan. 17) in the Chapter House the deans, archdeacons and proctors of the clergy, being bidden to withdraw to the Lower House, which we now learn was 'the long chapell,' spent an hour in choosing as 'prolocutor and referendary' Master Humfrey Hawarden, LL.D., like Dr. Cooke one of the Archbishop's legal officers. On the 19th Sir John Dynham, Treasurer of England, John Earl of Oxford, Thomas Earl of Derby, 'ac alii quam plures de consilio domini nostri Regis,' appear, and the first, 'in an ornate series of words,' explains the King's gratitude, his determination to be a most genuine and ready defender, guardian and upholder of the rights and liberties of the Church of England, and his need for 'money . . . to uphold Britain, nay more likely to defend Britain against the French king.' The Archbishop promises to consider of it, and the consideration is protracted. After complaints from Winchester of abuses of the right of granting absolution by the Order of St. John and the committal of the matter for examination to all the episcopal chancellors and commissaries of the province, the 'prepotentes ac Magnifici domini,' Dynham and his company return with despatches directed to the King from overseas, announcing the French king's preparation of an armed force against Britain for its final subversion. The scribe's chronology again becomes confused in writing up his notes, but it seems to

[26] *Reg. Morton*, I. ff. 41–45, with the consequent documents, ff. 45–54.

have taken ten to twelve meetings before it was resolved, on the 27th, to grant to the King a 'magnum subsidium' of £25,000, estimated as more than two whole tenths, and therefore accompanied with a request for exoneration from all other charges. The first moiety is to be collected between Lady Day and May 1, the second between Michaelmas and November 1. Besides this, two lesser subsidies are granted to the Archbishop 'for the glory of God and the defence of the Church of England.' The details for Canterbury show that the amount derivable from monastic property was almost exactly three-elevenths of the whole,[27] but the proportion in some dioceses would be higher. The consequent documents are dated the last of February and March 7, 29, and the character of the record suggests that the clerk, in transcribing details necessary for office purposes, forgot to finish the account of the Convocation itself. Of the other schedules noted but not copied one is noteworthy. The Prolocutor presents a 'quaternus papiri' containing the Feast of the Name of Jesus and the suggested mode of its observance: the observance is ordained for all future years by the Archbishop accordingly, 'with the consent of his brethren and of the prelates and clergy,' and in this way synodical sanction was given to a commemoration which had become increasingly popular during the previous quarter of a century.

IV

It is hard to pass over with a bare reference the records of the indulgences and privileges of the house of St. Thomas of Acon, London, with details going back to the thirteenth century, and the indication that the collections made on its behalf were meeting (December 1487) with considerable opposition[28]; or the exemplifications of documents relating to lands held in 'gavelikend' in Chepsted and Chevening granted by King John to Archbishop Hubert († 1205) and attested by Archbishop Eadmundus (St. Edmund Rich, 1234–40) and Master Richard de With (St. Richard of Wich), his chancellor, and subsequently by Archbishop Arundel.[29] As so often, a late register perpetuates documents earlier than itself and is the only knowledge that we have of them: there is no knowing what may be swept into a register

[27] *Reg. Morton*, I. ff. 49*b*–50. [28] *Ibid.* ff. 11–12. [29] *Ibid.* f. 24.

when the registrar begins to tidy his room and his clerks to endeavour to overtake arrears. Hence the beginning and end of a quaternion will often contain curious things. There is one before us which begins with the foundation deed and statutes of a hospital of poor at 'Croidon' by Elis Davy, 'cetezen and mercer' of London (April 27, 1447),[30] followed in the same hand by the 'Ordo canonizacionis sanctorum' (dated Rome, August 1, 1487),[31] imperfectly reproduced by Wilkins, and an account of a procession of the Bishop of Winchester (July 14, 15, 1476) in honour of the relics of St. Swithin in an ivory box, when the Bishop of Chichester preached a sermon 'in vulgari'; by a bull of Alexander VI (October 4, 1494)[32] to inquire as to the 'vita mores et miracula' of King Henry VI, and a petition[33] of Henry VII for the removal of the bones of Henry VI from Windsor to Westminster Cenobium, the burial-place of kings, with note of the exploits of Henry V. And at the end[34] is an account of a scene (November 15, 1498) in which Morton at the King's request, 'in quadam alta interiori camera infra palacium dicti serenissimi principis apud Westm. situatum,' gives authority for certified copies of a bull of Pope Alexander (April 22, 1498). The bull recites that there are fifty-seven houses of Friars Minor in England, but that only in one (founded by King Henry 'in villa Grenwici Cant. dioc.') 'regularis viget observantia,' and that there is 'adeo tanta Raritas et paucitas Religiosorum,' that once in twenty-five of them there were as many as now in fifty-seven, and orders the Archbishop to investigate. Among the witnesses now are Giles Lord Dawbeney, 'camerarius regius,' Sir Richard Gyllford, 'contrarotulator,' and Sir Thos. Lovell, Treasurer of the Household.

It is easy to suggest that King Henry's 'care for the lordis spirituall kingdom'—to borrow the language of James I—and that of Morton were not free from worldly motives, but it is not wholly just. Seven years before, on August 13, 1487, Innocent VIII had issued three bulls, of which the second dealt with abuses of sanctuary as a base for committing 'maleficia'—homicide, murder, sacrilege, theft, etc.[35]; the third on the King's petition granted authority to Morton or his deputies[36] to absolve any who had incurred major excom-

[30] *Reg. Morton*, I. ff. 199–202.
[31] *Ibid.* ff. 202–204*b*.
[32] *Ibid.* f. 204*b*.
[33] *Ibid.* f. 205*b*.
[34] *Ibid.* f. 206.
[35] *Ibid.* f. 6.
[36] *Ibid.* f. 7.

munication, 'even if of ducal or higher dignity, for causing new tumults in the kingdom.' The first (*Quanta in dei ecclesia*)[37] has been the source of no little controversy. The Pope has heard not without great displeasure . . . that divers monasteries of the Cluniac, Cistercian, Premonstratensian and other orders have departed from the pious intentions of their royal and noble founders and fallen into laxity of life and morals, and the King has petitioned for their reformation. Morton is empowered to visit them, even if exempt. The first result is a citation (February 6, 1487/8) to the Cluniac house of St. Andrew, Northampton, where an embittered struggle was going on between Thos. Sudbury and Wm. Breknok for the office of Prior,[38] followed by a second to Breknok (February 27), who had evaded service. Another (February 9) recites that the Archbishop, turning his eyes in grief to the Augustinian monastery of the Holy Cross, Waltham, has seen that illustrious house, where once religion flourished, fallen into intolerable ruin in spirituals and temporals by default of Abbot Thomas. True religion is perverted to error, holy obedience to obstinate rebellion, 'votiva castitas in libidinosam voluptatem,' and the property wasted or misused. Of the sequel in this case the Register tells nothing, but in the other the clerk provides a most bewildering document. On February 16, 1490/91, appears, 'in quadam magna capella,' at Lambeth, Dompnus Thos. Sutbury, Prior of St. Andrew's, Northampton, to resign his office. He reads from a paper in his hand (*in papiri cedula*), 'In the Name of God, Amen.—I, Wm. Breknok, Prior . . . do resign': which resignation the Archbishop was pleased to accept and to declare the office vacant 'so far as concerns the person of the said dompnus *Thomas*.'

On March 6, 1489/90, Pope Innocent issued afresh the bull *Quanta in dei ecclesia* with reference to exempt houses.[39] This is followed (March 18) by another, which, after enumerating various enormities arising, it is said, in England in exempt places, special stress being laid on disturbances of the public peace and treason (*lesa maiestas*), authorises Morton to investigate and with the aid of two bishops and two abbots to reform these privileges. On July 5, 1490, Morton, as 'visitator reformator inquisitor ac Judex,' issued 'in quadam alta camera' at Lambeth the famous monition to William

[37] *Reg. Morton*, I. ff. 5–6. [38] *Ibid.* f. 8*b*. [39] *Ibid.* f. 21; *cf.* ff. 5–6.

Abbot of St. Albans to reform within a month, as he had already been ordered and had failed to do, on pain of visitation.[40] The charges include simony, usury, dilapidation and waste of property on the part of the abbot, including destruction of woods to the value of over 8000 marks, and allegations of gross immorality between the monks and nuns of Pray and 'Sapwell.' They are allegations, not proven facts; but, on the other hand, they are too minute to be dismissed as vague calumnies. The Register throws no light on subsequent proceedings.

It is otherwise in regard to the priory of Blessed Mary and St. Eanswitha of Folkestone. On October 25, 1491, commissions[41] are issued to investigate charges of non-residence, waste, and incurring of debt made against the Prior, Thos. Banys, who took no notice when bidden to return to residence, and was cited (February 7, 1492/3) to appear in the chapel at Lambeth to answer articles which alleged neglect of duties and of the cure of the souls of the parish annexed to his house during a period of '20 or 30' years. On March 8 Henry Cooper, Decr. Bach., Commissary-general of the city and diocese of Canterbury, was ordered to proceed to Folkestone to cite him afresh, as he still took no notice, and to examine witnesses. On March 19 the fruits of the priory were sequestered,[42] and on June 2, 1493, Banys was deprived. From the last document we learn that he had been living all the time on the other side of the Thames from Lambeth, 'in a privileged place, to wit the monastery of Westminster,' while his own monks were wandering at will in Folkestone, 'in graue ipsius Religionis et totius clericatus scandalum et valde perniciosum aliorum exemplum.' Eighteen months may seem a long time for a 'causa correccionis ex officio,' but at least the case was followed up to the end. The amount of debt that he had incurred is estimated[43] at £700, and the parish was later separated from the monastery.[44]

The importance which Morton attached to good financial management is seen in the next entry in the Register[45]—a commission to Master Ralph Haynyes, a canon of the Augustinian priory of Reygate, to collect the fruits of the

[40] *Reg. Morton*, I. ff. 22*b*–23*b*.
[41] *Ibid.* ff. 30*b*, 31.
[42] *Ibid.* ff. 31*b*, 32.
[43] *Ibid.* f. 31*b*.
[44] *Ibid.* f. 220, by bull of Alexander VI (October 7, 1494).
[45] *Ibid.* f. 32*b*.

priory as the prior is infirm (February 27, 1492/3). But it appears also in many other documents of various kinds, including the confirmation of the Confraternity of the Holy Wisdom (Sancta Sophia), set up in honour of our Lord and His mother St. Mary, St. Paul the Apostle, St. John the Evangelist, St. Jerome, presbyter, St. Augustine, Bishop of Hippo, and St. Mary Magdalene in the college founded in the city of London 'per bone memorie Richardum Whitington.' The Fraternity is confirmed on the petition of Edward Underwoode, S.T.P., the warden, and is for securing free public lectures in the same Wisdom,[46] an indulgence of forty days being granted to all who support it. The student of London history may gain something from examining this and similar entries such as the appeal on behalf of the hospital of Blessed Mary 'de Bethelem extra Bysshopisgate.' The student of Morton's own history will learn also from the latter that he regarded as his patrons his martyred predecessors, Alphege and Thomas.[47]

V

Before proceeding to describe the largest, and in some ways the most important, section of the Register, that of the various proceedings connected with the vacancy of sees, and in particular the visitations *sede vacante*, we may beg leave to isolate for convenience two classes of disciplinary cases which have a special interest in relation to benefit of clergy and to questions of religious belief.

Of the six cases in the former category the first belongs to Bath and Wells, the rest to Sarum in the vacancy after Bishop Blyth's death (August 23, 1499). John Lemyng, chaplain, late of Stokecursy, was charged[48] with breaking (December 10, 1488) into the house of Robert Peers of Wyke in that parish and carrying off £15 in gold and silver; twelve silver spoons, value 40*s.*; and two silver cups (*murras*), value £3. 'Conventus et iudicatus' before the King's Justices and 'captus et incarceratus' by the lay power, he was handed over, 'tanquam clericus,' to Robert Bishop of Bath and Wells (†May 1491) as his competent judge, to be judged in the ecclesiastical court 'iuxta Canonum Sanctiones.' Since

[46] *Reg. Morton*, I. f. 28 (April 4, 1490). [47] *Ibid.* f. 26 (January 2, 1489/90?).
[48] *Ibid.* f. 67*b*.

he desired to purge himself and to prove his innocence, the Treasurer of Wells, as keeper of the spirituality *sede vacante*, issues a monition (October 7, 1491) to the dean of the deanery of Brigge Water, the chaplain who is curate of Stokecursy, and to John Bartholomew of Wells, literate, sub-apparitor-general, to cite in Wells market on the following Saturday, and in Stokecursy church on the next convenient Sunday or holy day during mass or divine service, any persons interested and objecting to such purgation to show cause on October 17 in the chapel of the Blessed Mary the Virgin by the cloister of the cathedral church. It will be seen that if Lemyng was taken soon after the alleged offence he must have spent a considerable time in a prison, secular or ecclesiastical, and there is ground for thinking that this often happened.

Wm. Turwyn of Upton Robert, 'clericus seu pro clerico reputatus,' was charged[49] with having on May 3, 6 Hen. VII (*i.e.* 1491), broken, with other men, 'vi et armis viz. gladiis baculis, etc.,' into the house of Stephen Russell of Selhamsted Banestre, co. 'Barks,' and carried off £6 16*s.* and a chalice worth 5 marks of the goods and chattels of the parishioners, in Russell's custody, contrary to the peace of our Lord the King. Being taken by the King's 'ministri' and imprisoned in the Gaol of the Liberty of Redyng, he was convicted 'per Judicem secularem' and handed over by the King's Justices, 'tanquam clericus convictus,' to the ordinary of the place, according to ecclesiastical liberties, to be judged. On November 4, 1499, Laurence Cokkes, Decr. Dr., the official *sede vacante*, issued a monition for citation of opposers of his purgation, to be made ('ne praedicta purgacio sua huiusmodi clandestina fieret aut furtiva') in the cathedral 'intra diuinorum solennia cum maior adesset populi multitudo,' and in the churches of 'Uppon' Robert and Selhamsted. On November 25, on certificate of the proclamation, Turwyn, when formally charged by the Judge, asserted his innocence on oath; his four compurgators—Edw. Duke, Rich. David, Rich. Woodeward and Rich. Lane of the city of New Sarum—made oath that they believed him; and, no one appearing to contradict it, the Judge declares him 'quantum ad forum ecclesiasticum pertinet' to have been and to be innocent. If so, unless the scribe has blundered as to the date of his offence, he had suffered most grievous wrong.

[49] *Reg. Morton*, I. f. 195.

The compurgators in the other four cases are the same, with two others added—Thos. Backister and Thos. Wheler. We should have inferred from the description in Turwyn's case that they were laymen, but all are now described as clerks.

John Saunders of Stoke Wake was charged [50] with having (February 17, 1497/8), 'gladiis et baculis,' on the king's highway at Edersley in Milbourne, lain in wait and made an attack (*insultum*) on John Suppeley, robbing him of 26*s.* 8*d.* Having been captured by the lay power and incarcerated, he was handed over, 'tanquam clericus,' by the King's Justices to the Bishop to be freely judged 'in one way or another' in the ecclesiastical court. The description suggests, though it does not prove, (*a*) that he was a layman claiming benefit of clergy; (*b*) that, unlike Turwyn, he had not been convicted by the Justices. A monition issues (October 28, 1499), proclamation is made in Salisbury Cathedral on three Sundays or holy days, in the parish churches of Salisbury, and in that of Stoke Wake. On December 9 the purgation takes place unopposed, and Dr. Cokkes allows him 'to go away free from prison bonds (*a vinculis carceribus* [*sic*]) so far as concerns the ecclesiastical court.' This may be a rhetorical flourish, as it also occurs in the three following cases; but otherwise both he and the next man will in any case have been in prison from before August 23 (when Bishop Blyth died) till December 9.

Wm. Jamys of Estlavington (also, we suspect, a layman) was charged [51] with having broken (July 14, 1498), 'baculis et cultellis,' into the house of Wm. Temse, chaplain there, and taken thence 'unum par precularum' worth 40*s.*, a gold ring worth 26*s.* 8*d.*, and £10 13*s.* 4*d.* in a purse. The monition (October 28, 1499) and proclamation are as in Saunders' case, substituting Estlavington for Stoke Wake. The purgation is on December 9, as are also those of Browne and Lambert which follow.

John Browne of Alton, described as 'dominus,' was charged [52] with breaking (August 27, 1498), 'gladiis et daggariis,' into the house of John Rumsey at Ambresbury and carrying off a most curious assortment of goods and chattels—viz. a gelding, 'coloris donne,' value 18*s.*; 24 yards of woollen cloth, 'coloris blodii,' value £3; 36 yards ditto, 'coloris tauny,' value 24*s.*; 12 yards ditto, green, value 9*s.*; 12 yards ditto, russet colour, value 7*s.* 4*d.*; three pairs of sheets,

[50] *Reg. Morton*, I. f. 195*b*. [51] *Ibid.* f. 195*b*. [52] *Ibid.* f. 196.

value 6*s.* ; 2 lbs. of pepper, value 2*s.* 4*d.* ; 2 oz. of saffron (*croci*), value 2*s.* ; 28 lbs. of 'Aleyme,' value 2*s.* 4*d.*—from the goods and chattels of Walter Meraunde in Rumsey's custody. Browne had been imprisoned by the lay power, and handed over, 'tanquam clericus,' by the Justices to the Bishop, and the purgation proceeds as before, *mutatis mutandis*, with the same compurgators and the same result. And if we perhaps suspect a miscarriage of justice, we shall observe that he must have been in prison at least nearly four months, and may have been so for sixteen months.

Thomas Lambert of Castelcombe is charged[53] that on November 5, 1498, at 10 P.M., he made an attack (*insultum*) upon Robert Osbourne at that place and did beat, wound and mishandle the said Robert, and then and there, 'cum uno cultello,' called 'a London knyffe,' price 4*d.*, did feloniously strike him in his throat and gave him a mortal wound, 'latitudinis duorum pollicum et dimidii et profunditatis quattuor policium et dimidii,' whereof the said Robert then and there died, and thus the said Thomas did then and there feloniously slay and murder (*murderauit*) the said Robert. As before, the accused was imprisoned and handed over by the Justices, 'tanquam clericus,' and once more the same procedure is carried through, with the same compurgators, and on December 9, 1499, he is released.[54] We may hope that he was innocent, but in default of further knowledge of the compurgators and their opportunities of information we shall be wise to suspend our judgment, while remembering that the fact that the proclamation elicited no accusers is *pro tanto* in the prisoner's favour.

The cases of heresy relate to a layman and two clerks. The date of the first[55] would appear to be October–November 1491. John Dawnsy, 'lay man and Carpenter of the Town and parissh of Roode of the Diocese of Bath and Wellys,' abjures his errors before Maisters John Gunthorp, Dean, and Thomas Harrys, 'Thresurer of the Cathedrall chirch of Wellys, Officials or Kepers of the Spirituelte of the Bisshopryke of Bath and Wellys, the Seys of the chirches of Bath and Wellys nowe being voyde.' The whole document is worth printing, but we can only find space for the 'Articles and oppynyons . . . especiall euyll sownyng to the erys of Well disposed Cristen men.' 'ffirste that for all the Prestis

[53] *Reg. Morton*, I. f. 196*b*. [54] *Ibid.* f. 196*b*. [55] *Ibid.* f. 68.

whisteryng that god was not at the Awter when the Preste speketh softe in his Memento. Also that it nedeth not a Childe to be Cristened that is bigotten betwene a Cristen man and a Cristen Woman. Also that it nede not to be confessed of prestes but that one man may be confessed of a nother. Also that it nede not a man to make any obesaunce to any crosse but as to a man spredyng his Armys for that is the crosse that god made. Also that a synfull man may neuer be dampned thorough his synfull lyuyng, for then Criste must nedis dampne his owne flessh and blode y^{t} he toke of the Virgin Mary.' He acknowledges these Articles to be ' erroneus and again the trewbileue faith and determynacion of holy chirch,' promises to give no aid to any who hold such views, and if he knows of any such, ' or that make any priuatt conuenticles contrary to the comyn doctrine of holy chirch,' he will denounce them to the ecclesiastical authorities, ' So helpe me God and the holy dome.'

The cases [56] of John Whitehorne, Rector of Letombassett, and John Lydtister, Chaplain of Sparfold, had come before the official of Bishop Blyth of Sarum in the Consistory Court on June 29, 1499, when they admitted the articles objected to them. The proceedings seem to have been interrupted by the Bishop's death in August, for it is not until November 2, 1499, that the consequent abjuration is made. The formal document is as follows :

' Abiuracio domini Johannis Whitehorne

' In the name of the Trinite fader sonnie and holy gost his blissid moder and all the holy companye of hevin I sir John Whitehorne parson of the parissh chirch of Lettcombasset in the diocese of Sarum, gretely noted defamed detect unto the Reuerent fader in god John by the grace of god late bisshop of Sarum my Juge and ordinarye denovnced for an untrewbeleving man. And also that I shuld holde afferme teche and defende opinly and prively heresies errours and singuler opinions and fals doctrines contrarie to the common doctrine of oure moder hooly chirch with fals sotilteis evil-sounding and dissaiveable to the Erys of trewe symple understandyng cristin people. Whiche be to me nowe by the Auctorite of mynn Ordynarie proceding of office promoted iudicyally obiect.

[56] *Reg. Morton*, I. f. 194.

'ffyrst that in Sacrament of the Aulter is not the verry body of crist that was borne of a virgin that was crucified and died to Redeme mankynd that Arose from deth to lyef and that stied into hevinn but there is pure brede and nowght els. Saving that crist assendid into hevin in his verry body, so that he con myght not nor shall not come ayenn here in erth untyll the day of dome, Whenne he shall Juge all the World. And that crist saying to his dissiples at his mawndy take and ete, this ys my body etc. mente nat of brede that he brak ther but of goddes word. for the Worde ys god and god is the Worde. As in the begynnyng of saint Johns gospell. And therefore Whoo so euer Resceive devoutly goddis Word he Resceyvith the verrey body of criste.

'Item that it is no nede to be Shrevin to a prest or to any other mynestre of the Chirch, but that it is Inowgh to be aknowyng to god and to be sory for the synne, being in Wil to Returne no more to the sinne.

'Item that Imagis of the Crucifix, of oure Lady and other saintes shuld not be Worshipped nor noo lightes shuld be sett afore theim, for they be but stokkes and stonys.

'Item that thise pilgremagis usid of good cristin people unto the hooly saintes be not Availeable nor lefull and that the money spent in suche cause is but Wastid and lost, for the saintes haue noe nede thereof.

'Item that the Pope is antecrist and other ministres of the Chirch be his disciples, for like as it hath be [*sic*] said that Antecrist shuld turne all upp and downe at his commyng, so the pope be his Lawes and dispensaciouns turneth upp and downe the lawes that crist lefte to the people.

'Item whenne crist shulde ascende into Hevin he left his power with his Appostylles and from theim the same power Remayneth with euery goode trewe cristin mann and womann lyving virtuously As the Appostelles did, so that prestes and Bysshoppes have no more Auctorite thenne a nother laymann that folowith the teching and the good conuersacioun of the Appostolles.

'Item that the Curses and other sentences of the Chirch be of noone effect And nowght to be sett by, for no curse is to be sette by ne dred, but only the curse of god. Which the bisshoppis and prestes haue not in ther power.

'Thise Articules And euery of theim afore rehersid and to me by mynn Ordynarie Judicially obiectid I sir John White-

horne afore said opinly knowliche my silf and confesse of my fre will to haue hold lernyd and belyvid And so haue tought and affermed to other. Which alle and euery of theim I undrestond and belyve herisies and contrary to the common doctrine and determinacioun of the Vniuersall chirch of crist. And confesse me here to haue be [*sic*] an heretik lerner and techer of heresies errors opinions and fals doctrinis contrary to the cristin faith. And for as moche that it is so that the lawes of the chirch of crist and holy canouns of saintes be grounded in mercy and god Wil not the Deth of a Synner but that he be conuertid and live, And also the chirch closith not hir lappe to theym that Wil Returne, I therefore willing to be partyner of this foresaid mercy forsake and Renownce also thise Articulis afore rehersid and confesse theim to be heresies errors and prohite [? *for* prohibite] doctrine And nowe being contrite and fully Repentyng theym alle and euery of theim Judicially and solemnely do theim forsake abiure and Wilfully Renunce for evermore And not only theim but alle other Heresies errors and dampnable doctrinis contrary to the Determinacion of the Vniversall chirch of criste. Also that I shall nevir hereaftre be to any such persones or persone favorour councelar mayntener prively or pertly but yf I knowe any suche hereaftre I shall denunce and disclose theim to myne ordinarye beyng at that tyme or to his officers or els to sum persones of the chirch as haue Jurisdiccioun on thes persones so fawte. So helpe me god and thise holy euangelys. Submittyng me opinly not coacte but of my fre will to the payne Regour and sharpenes of the lawe that a man Relapsid ought to suffre in suche caas yf I ever do or hold contrary to this my present Abiuracioun in part or in hoole thereof. In Witnesse whereof I subscribe with myne owen hand making a crosse and Require all cristin menn here present to Recorde and Witnes ayenst me and this my present confessioun and Abiuracioun yf I from this day foreward offence or do contrarye to the same.'

The abjuracion of 'Sir John Lydtister late serving in the parissh church of Sparfold' [57] is in exactly the same terms, and on November 2, 1499, the two men were ordered to appear on the following Sunday (November 3) in the cathedral church of Sarum with bare head and feet, with a 'fassiculus' on the left shoulder and a torch in their right hands, and with certain books of Sir John Whitehorne openly hanging about his neck,

[57] *Reg. Morton*, I. f. 197*b*.

and each of them to go in before the cross and when the procession is over each publicly and manifestly before the people to abjure all and singular his errors and heresies ; and in similar fashion on the following Tuesday to go from the cathedral through the streets of the city where the greater concourse of the people should be, followed by the curates of the parish churches of St. Thomas and St. Edmund with rods in their hands to discipline them at certain stations as far as the High Cross in the market place (*in loco forali*) of the city, and there to abjure their errors and heresies as before. This done, Sir John Whitehorne is before all the people to deliver to the flames his books hanging about his neck, and then through the public streets of the city to return to the cathedral to pour forth their prayers to the Most High.

VI

The above cases have all been taken from proceedings *sede vacante*. That records of a vacancy were always kept we may be certain, for they involved payment of fees, and there would be papal and royal documents upon the files. But they were by no means certain to be transcribed in the Register. Thus, of twenty-five vacancies during Morton's primacy, twelve (including the five Welsh ones) have left no trace. In the case of cathedral bodies enjoying the benefit of the composition with Archbishop Boniface the entries might be but a page or two, but at least there should be that, and if the Archbishop chose to ' visit ' the diocese there might be much more. It would not, for example, be easy to find a more beautiful survey of the monastic and collegiate *personnel* than is given in a visitation [58] of one of these privileged dioceses (Worcester) after the death of John de Giglis (August 25, 1498), or a more interesting one from a different point of view than that of another of the same category (Sarum). In the former we have the names of forty-four monks of Worcester, at least half with some office assigned to them, as is the case with seventeen of the thirty-three monks of Tewkesbury, who include a ' magister specierum.' Gloucester has fifty monks, of whom twenty-one have descriptions, besides John Newton, S.T.B., Wm. Motlowe, S.T.B., John Arundell and Hugo Bowles, who are ' scolares Oxon.' Winchcombe

[58] *Reg. Morton*, I. ff. 167–74, 184–87.

has twenty-five members, Pershore twenty-four (one of them in prison). The Priory of St. Sepulchre, Warwick, has only four, that of Almestry only three, of whom the most important, 'Dompnus Willelmus Whitechurch,' is described as 'prior, remotus tamen ad nutum Dni Abbatis Eveshamie.' The collegiate church of Westbury has a dean and subdean, five prebendaries, a treasurer and sub-treasurer, a 'magister grammatice,' six 'socii perpetui,' and ten others, making twenty-six in all. The appended visitation of the archdeaconry of Worcester, though not complete,[59] gives many scores of names of incumbents and churchwardens, besides those in the institutions and probates of wills.

The Winchester visitation of 1492,[60] though, as we have seen, imperfect, provides much interesting material. For the house or priory of B.M. Overey in Southwark we have the names of John Reculver, prior, and of eight priests, described as 'dominus,' and seven 'canonici professi' called 'frater'[61]; for the house or hospital of St. Thomas the Martyr, those of John Burneham, master, and Wm. Beele, late master, and four other members. The parish of St. Olave has a rector, Master Robert Gryme, and no less than six stipendiary chaplains. The Augustinian house[62] of Merton has a prior, Dns. Johannes, and twenty-four brethren; Chertsey, twelve members besides the abbot. The visitation of the monastery of St. Swithun, Winchester, by Robert 'Shirbourne,' supplies not only the names of the prior and twenty-six monks, but their depositions.[63]

Thomas Hunton, the Prior, deposes nothing, but says that all things are laudably observed. Dns. Wm. Silkestede, subprior, says that they have enough to eat, but the quality leaves much to be desired, especially the beef and mutton, and Dns. John Floure agrees. Dns. John Wode says that all is well so far as he knows: Dns. Thos. Gardyner that there is no proper inventory, a very valuable ring has been lost and, by the like negligence, the foot of the cross of the 'arca'

[59] We know indeed what probably happened; for among the Miscellaneous Rolls at Lambeth (No. 1453), stained and eaten away with damp in the course of centuries, is a roll of many membranes which comprised the rough working list of clergy, etc., prepared beforehand and annotated in the course of a Sarum visitation *sede vacante* (November 1499). It was meant to be transcribed at the end of the existing unfinished record (ff. 191–7) at an opportunity which never came, though the space for it still remains vacant.

[60] *Reg. Morton*, I. f. 78.

[61] *Ibid.* f. 79.

[62] *Ibid.* f. 80*b*.

[63] *Ibid.* ff. 89*b*–90.

given by Bishop William [of Waynflete] ; that the prior keeps the offices of Elemosinarius, Third Prior and Anniversarius in his hands ; that there ought to be forty-six monks and are only thirty. Dns. John Chechestre agrees as to the diet, and says that the 'hordarius' renders no account and there is no inventory of ornaments and jewels ; that at every inquisition there is talk of reforming many things, and something is done for a time, but it does not last. Dns. John Dorset agrees as to the quality, but also says that the quantity of the diet is deficient, and that the 'humanity' that used to be exhibited to the brethren for augmentation of the 'fercula' has now fallen into desuetude. Dns. John Pury confirms this and says that the food is badly (*indebite et minus honeste*) prepared and served, and that a pound of wax has been stolen. Dns. John Lawnston alleges that the dormitory is neither clean, quiet, nor in good repair ; that the stalls in the cloister are much exposed to the weather ; that a certain 'hordarius' named Philip gave £10 to the convent to improve the meals, but it is unknown what has been done with it ; that those in the infirmary are not properly looked after ; and that the ornaments of the altar in 'Wykham's' chapel are very poor (*multum vilia*) and broken. He asks that the books placed in the library (*libraria*) may be looked to, for there is not free access to them. He adds that the foot of a cross has been carried off, and that the man who did it paid the prior 10 marks for it, for which no account has yet been rendered ; also a ring of great value has been lost or alienated by the negligence of the prior, to the grave prejudice of the monastery. Dns. John Fetipase, the hordarius, says that no inventory of the church goods has been made by the sacrist (of his own inventory he says nothing). Dns. John Marlborowe deposes that the sick have no better provision than the rest, though allowance is made for the purpose, and that there is neither inventory nor accounts. The sacrist, Dns. Richard Anceline, complains of the food. Dns. Philip Yonge says that the different offices are not divided among the monks, that the seats (*sedilia*) in the refectory are not suitably arranged or restored, that two offices ought not to be held by one and the same person, which is contrary to their 'religion.' Dns. Richard Lacy testifies as to the lack of inventory, and petitions 'ut detur unus monachorum alicui studio' and that the proper 'pronuncio' should be made against delinquents according

to the form of religion. Dns. Richard Arundell complains ' de non bona dieta.' Dns. Walter Hill deposes that some persons (*quidam*) have been introduced (*inducti*) by his brother monks, and that as a result there has been a diminution of the accustomed alms. Dns. John Beste says that the vessels of wine and water pertaining to the altars are not well covered, and that neither the linen cloths (*linthia*) nor those things which are the ornaments of the altar are clean. With this Dns. Thos. Knyght agrees, adding that the sacrist does not pay the accustomed money due to the brethren for the second Mass celebrated. He also petitions that the prior should treat the monks ' honeste, et quod habeant verba decencia.' Dns. John Westbury deposes that the proper hours at which the bell ought to be rung for Matins and other Hours are not kept, and that the food is carelessly (*indecenter*) prepared by the kitchen servants. Dns. Peter Marlowe says that Dompnus Prior uses many dishonouring words [*inhonesta* in an erasure] towards the monks and convent, and that the ' officiarius ' makes no proper provision for the infirm in the infirmary. Seven monks whose names are given ' nichil deponunt.'

It will be admitted that the condition of affairs disclosed is not satisfactory in matters more serious than food. Of the thirty monks we have the evidence of twenty-six.[64] The Prior, Thos. Hunton, had been ordained priest in 1448 and had filled his present office since 1470. He probably congratulated himself, and with reason, that the moral condition of the house was above reproach, and was a little content to let material improvements go. The sub-prior, Thomas (*not* William) Silkstede, had been an inmate at least since 1468 and became prior in succession to Hunton in 1498. It is significant that it is the senior members like John Floure (acolyte 1451), Thomas Gardyner (acolyte 1455), and John Chechester (acolyte 1465) who complain, like the sub-prior, of material discomforts and defective administration, and the junior that the aged prior does not use honourable and becoming speech towards them.

In the visitation of St. Mary's, Winchester,[65] the Abbess, Dna. Johanna Ligh, says nothing; but seven of the twelve nuns ask for repairs of the buildings, including the ' pavement '

[64] It is curious that fourteen are named John, but the scribe is not quite accurate if we may trust the table of ordinations in ' Compotus Rolls of the Obedientiaries of St. Swithun's Priory, Winchester,' ed. G. W. Kitchin (Hampshire Record Society, 1892).

[65] *Reg. Morton*, I. f. 90.

in the dormitory and the place where they wash their clothes and linen. Dna. Anna Seint John says that the King and Archbishop each have the nomination of a sister. Dna. Anastazia Holand says that the prioress 'non tractat consorores verbis honestis,' and another nun that the curate of St. Rumwold's has struck her.

The returns of Hyde and Rumsey are more elaborate.[66] Richard Hall, Abbot of Hyde, complains that the prior is very remiss and gives the brethren too much liberty to go out. The prior says that a monk has been 'in apostasia' for two years, that there used to be twenty-nine brethren, and now are only [ ]; but the scribe has left a blank, and we are left to observe that only twelve other monks give evidence. The delightful section of the Hyde Register[67] which begins 'How many languages are there in the world? *Ans.* 72. Why are there not more or fewer? . . .' and after giving the answer continues with a list of monks admitted, seems to suggest that none of those examined had been admitted since Hall became abbot in 1488. The Prior, Walter Ensourde (? *for* Enford), is, with the possible exception of Thos. Millers, far the senior of all, having been admitted by Abbot Nicholas Strode (1415–40 ?). His complaints are of neglect of proper examination and publication of accounts, and as to the application of the revenues of the churches of Peuesey (Pewsey) and Shesilton (Chisledon), the appropriation of which Abbot 'Strowde' had procured. But he adds something that would have pleased Mr. A. F. Leach.[68] By a custom used *ab antiquo* Abbot Strowde had provided that fourteen *pueri* should abide in the said place daily to sing in the morning a mass of the Blessed Virgin in the chapel, and after to attend the grammar school (*grammatice scolam frequentarent*), which provision has wholly perished. The advowsons of Peuesey and St. Laurence are granted to Dr. Glyn and Dr. Lichefeld. There remain in the abbot's hands £10 given for the construction of a new library, which is not yet begun, and it is not known where the money is. Also the sacrist ought to keep an inventory of the church's goods and ornaments. Dns. John Hide (also the abbot's senior in profession) asks that some of the brethren should be given knowledge of the

[66] *Reg. Morton*, I. ff. 90, 90*b*–91*b*.

[67] *Liber Vitae. Register and Martyrology of Newminster and Hyde Abbey*, ed. Birch (Hampshire Record Society, 1892). [68] Cf. *Schools of Medieval England*, chap. xi.

revenues : none of them knows or has heard anything of their true value. Moreover, the 'officium Vintarie quasi periit.' From other witnesses it appears that the abbot is building a parlour while the brethren in the infirmary need attention, part of the church needs repair, and the usual offices are not distributed among the brethren. There are also complaints of the food, and a petition that the prior should have and keep 'mansum suum' as accustomed.

The 'comperta' of the visitation at Rumsey, of which the notorious Elizabeth Broke was abbess, have been printed in an English form by Mr. H. G. D. Liveing in his 'Records of Romsey Abbey,' a book of great interest to which many of us owe amusement as well as gratitude.[69] Probably the most characteristic feature here is the assertion attributed to the abbess that when the enquiry was finished, 'faciet uti fecit.' We note in passing that the nuns used to be in the dormitory by 8 P.M., but now there is no fixed hour, nor are the doors shut at 10. And as the further documents printed by Mr. Liveing show, the condition of things steadily deteriorated during the remaining period of nearly ten years in which Elizabeth Broke was abbess.

The four remaining houses visited tell us little beyond names. At Sothewike (Southwick) Dns. Philip Stanbroke, the Prior, deposes that all the canons are 'viri religiosi bonorum morum et conversacionum,' and the ten brethren say nothing. Of the six members of the priory of St. Denys, near Southampton, one asks for a 'secular minister' to ring the bell for the canonical Hours, and another asks for improvement of food and drink. At the priory of Christ Church, Twyniham, Fr. Thomas Selby deposes that the beer is 'valde tenuis,' and the Prior, John Draper, and other brethren, in number sixteen, say nothing. It is unfortunate that the account of the visitation of Brymore Priory (Breamore) is left unfinished, but we learn that the prior finds himself burdened with grants of annuities and pensions made by his predecessor to the amount of £12 18*s.* 8*d.*

[69] *Records of Romsey Abbey.* By H. G. D. Liveing. (Winchester: Warren, 1906.) The translation and representation of names is fallible. We may be pardoned a quotation of one of the most delightful examples of the way in which the eye plays tricks on the unwary. Dna. Johanna Skilling, says Mr. Liveing, prays 'that the conventual services be sung in choir (? inchorentur).' Unfortunately we fear that what Dna. Johanna really prayed was for an improvement in the convent beer, 'melioretur conventualis servicia.'

Side by side with this Winchester visitation we may place the Exeter one, in the vacancy caused by the translation of Richard Fox to Bath and Wells on his way to Winchester. Its date is May 1492. The Dean, Master John Arundell, does not appear 'quia cum principe'[70]; the Chancellor, Master John Taylour, cannot 'quia Rome.' The Treasurer, Master Thos. Austell, says that the Dean is non-resident and that the sheriff conducts secular business in the chapter-house. The Archdeacon of Exeter (Richard Nyck) and John Coryndon, one of the canons, do not appear 'quia cum episcopo Wintoniensi.' Another canon, Master Oliver Kyng, is absent 'quia cum Rege,' as might be expected. The Precentor (John Comb) and five canons who do appear in person say that all is well, but another canon, Master John Burton, deposes that the 'anniuellarii' do not 'usualiter' celebrate masses day by day. These 'anniuellarii' are twelve in number. They all say that all is well, except the first, Dns. Thos. Park, who is, we may suppose, the musician of the foundation. He says that 'organa sunt nimis ardua. Ita quod potest, potest sic'—in other words, that he does his best with an old-fashioned instrument, a perennial complaint. Of the six 'secundarii' four complain that the other two 'spaciunt patriam' without licence—which means probably more work for the rest.

The priory of St. Nicholas, Exeter, has five monks besides the Prior, John Herford, who finds fault with them.[71] They refuse a decent tonsure befitting the honesty of a monk, some of them have crowns of smaller circle than have secular priests and longer hair than it befits secular priests to have, and they are negligent in divers respects and yield no effective obedience to frequent admonitions. Dns. Richard White, the sub-prior, says that there is one inmate of the house who was professed at 'Batell' and afterwards sent to 'Brekenok' in Wales. His insolent life so annoyed the brethren[72] of that monastery that they at length secured from the abbot of the superior house (*capitalis monasterii*) of Batell his transfer[73] to another house, viz. St. Nicholas, Exeter, where he 'disturbs our quiet, for now by breaking the doors, now by

[70] *Reg. Morton*, I. f. 121. [71] *Ibid.* f. 121*b*.

[72] Reading 'confratres.'

[73] The scribe, who writes above 'honestali' for 'honestati,' has here made nonsense of what he is copying.

threatening the brethren, now by annoying the servants of the place he makes the prior "infestum" and "nonnullociens" [a wonderful word] disquiets us the brethren.' The sub-prior further complains about the smallness of his crown and the length of his locks. Dns. Wm. May says that some of his brethren do not behave themselves well and reverently towards the prior and sometimes call him in opprobrium in English 'Syr pryour.'

John Oliver, Prior of St. John's, Exeter, says that the number of the brethren is full, save for one who has taken flight, having stolen various goods. In the number of poor persons and of 'pueri' the house is 'perimpleta.' The condition of the house is good and it is not burdened with debt, but William Elyott, Archdeacon of Barum, withholds 16*d.* per annum due for his tenement for eight years past, and the Bishop of Winchester, formerly Bishop of Exeter, contrary to the will of the prior and brethren, holds £46 13*s.* 4*d.* of the goods of the house without any recompense up to the present. The three brethren say that all is well.

At Polsloo[74] Isabella Trevranok, the Prioress, and the ten sisters all say that all is well. At Canonlegh, which the scribe calls a priory, though it is plainly an abbey,[75] the Abbess, Dna. Johanna Stabba, returns the names of twelve sisters, of whom nine give evidence. The abbess says that Nicholas Bluett of Aishbritell withholds 2*s.* for a certain farm of La Torr and has done so for three years, though it has been abbey property from time immemorial. She asks for licence for the celebration of a mass of St. Mary in the chapel of Blessed Mary and St. John Baptist in the south part of chancel, as often as a mass of St. Mary is celebrated there. Dame Agnes Stone, the Prioress, says that Dame Johanna Conyssh is not obedient in her Religion, but is saucy ('proterva') in her disposicion. Also that they have not the full number by three persons. Dame Johanna 'Ornis' says that in time past she was disobedient, but she has been corrected for the same: the Prior of Barlegh retains the ring of her profession, value 13*s.* 4*d.* Two of the sisters, Johanna Poppam and Philippa Fortescu, say that they have not been professed. Five of the others say that all is well. Incidentally we notice that the scribe has not been able to read clearly either the writing of the abbess or of the clerk to the Commissary, for

[74] *Reg. Morton*, I. f. 122*b*. Prioress' name spelt also 'Trebranak.' [75] *Ibid.* f. 123.

the name ' Cornish ' appears as ' Conyssh,' ' Cruyssh ' and ' Ornis,' and Fortescue in two forms, neither of them correct.

In the case of the college of Ottery St. Mary we are given [76] the citation and a summary of the depositions, but not the return to the citation. The Custos, or Warden, Thomas Tinensis Episcopus, holder of many preferments and suffragan of Exeter and Bath and Wells, makes no statement, but the ' minister,' Master David Chirke, asserts that the custos and precentor each hold 3 acres and pay for them : the sacrist also holds 3 acres and pays nothing, and further that he ought from the four dignities to receive some benefit, as is laid down in the first chapter in the ordinance of the statutes : moreover, at the end of the year injury is done to the office of the minister because he receives nothing on account of the portion of his residence. Master Wm. Holcomb, the Precentor, says that the secondaries possess a copy of the statutes that it is not so (*quod non sic*). Master Wm. Hillyng, the Sacrist, states that he has an idea at the back of his mind (*mencialiter cogitat*) that he violates the statutes in that he receives in the division a portion for the times of his own absence. Only one of the four prebendaries appears in person and another by proxy. The ten vicars all return that all is well. The number of secondaries and clerks is not given : they say that all is well, but they have to provide statutes of the college new written before the Feast of St. Peter ' in Advincula,' on pain of sequestration of salary. They complain that their pension is withheld too long after the appointed time and that the vicars and secondaries ought to have the usual robes (*togae*). The sacrist is to pay the salaries at the accustomed time under pain of sequestration of fruits.

It will be observed that we have, in the order as to provision of new copies of the statutes and the payment by the sacrist, an inclusion in the summary of depositions of the injunctions which would have been briefly noted in the margin of the ' comperta ' and have now been transcribed in the text. This is shown even more plainly in the case of the collegiate church of the Holy Cross, Crediton.[77] Here the scribe has included in an abbreviated form the citation, but omitted the return to it, and in what follows presents a mixture of injunctions, depositions and interrogatories. Master John Bower, the Precentor, is ordered to exhibit an account (*com-*

[76] *Reg. Morton*, I. f. 122*b*. [77] *Ibid.* f. 123*b*.

potum) of matters concerning his office and cure at 5 o'clock on the same day, and his instrument of collation at Exeter, or wherever the Commissary happens to be, and further the letters of appropriation of the church of Colrigge and all (other) appropriations to this church. Asked how often the statutes of the church are publicly read, he says that they are not so read, but only sometimes secretly among the canons when they please. Further, that they ought to have sixteen vicars, but now have only six. Asked if he knows that the vicars walk at nights and at times not fitting into the town in a suspicious manner, he says 'Quod non bene nouit.' The Commissary ordered him to show reasonable cause within a fortnight why he should not pronounce him forsworn for not obeying the statutes. Dns. John Cook, the Treasurer, appeared and 'has not his Institution according to the tenor of the statute.' A day is assigned to him to show cause before the Archbishop or his Commissary before June 24, why the Treasurership should not be declared vacant. Neither he nor Master John Phillip, the Dean of the place, has ever heard the statutes publicly read since they held their office. Three of the vicars appear and say the same. The first does not know [78] to what he is bound, and the others agree.

It is in curious contrast with this that Dns. John Osbourne, the Prior of Fridelstok, and Dns. John Oke, Prior of Pylton, both say that they have no statutes or ordinances, etc., in the house. However, the three canons of the former and two monks of the latter say that 'omnia bene.' Prior Oke adds that Peter, late Bishop of Exeter, had from the goods of the said priory of Pylton two salt cellars of silver gilt, worth 20 marks, in pledge for 10 marks to be 'accommodated' (*accomodandis*) by the said prior to King Edward,[79] as evidently appears by an indenture between them made. These 'Decimae Regiae' the bishop ought to receive from the Collection of the Tenth. The proceeding is to the great prejudice and 'gravamen' of the said house, and the bishop himself promised to return the two salt cellars to the prior, but up to the present they are still in his hands.

The visitation of the Abbey of St. Nectan of 'Hertlond' exhibits [80] a feature unexampled elsewhere in Morton's Register. Dns. Richard Lorymer, the Abbot of the house or

[78] Reading 'scit' for 'sit.'
[79] *Reg. Morton*, I. f. 124.
[80] *Ibid.*

abbey, did not show to his Visitor due obedience nor subjection at his reception in the abbey. It is perhaps for this reason that the scribe has recorded both the citation and the return to it made to 'the venerable and circumspect man, Master Robert Shirborne,' though unfortunately he has not troubled to give the list of inmates which the Abbot states to be written on the back of the return. The reason of the Abbot's attitude we may perhaps infer from the concluding note. The Commissary asked for the ancient and accustomed procurations which ought to be given and paid to the Bishop of Exeter by reason of his visitation. The Abbot maintained that he had never paid any to the Bishop of Exeter for any visitation, and was given till St. Peter ad Vincula to show why he should not pay them to the Archbishop for the visitation. Five of the inmates, described in four cases as precentor, sacrist, succentor, deacon, say that all is well, and another that the house is not bound to a fixed number of canons, but that they were wont to be nine.

Dns. Wm. Hopkyn, the Prior of Launceston,[81] deposes that there is nothing to say concerning the evil disposicions of his brethren, for he says that they behave themselves decently and well to his knowledge (*de sciencia sua*), and the observation suggests curious reflections on the character of the question that must have been asked. The sub-prior, Dns. John Carlyon, says that 'omnia bene,' and being asked how many the canons are in number at present—a fact which the Prior seems to have omitted to return—says that they are ten but ought to be thirteen. Six canons say that all is well. Dns. John Kent says that there was a canon professed in the house two years back named Dns. Walter Bent, but he has gone away without the Prior's leave, whither is not known. The Prior 'has it in command' to have strict inquiry made for him as quickly as he can and to produce him. Wm. Symon, another canon, says that the sub-prior lately sold a silver *calix* worth £4 at Exeter, and also gave a book of law, value 10 marks, to Master Thomyowe, and wasted very many other goods and ornaments (*iocalia*) of the house and put various *iocalia* in pledge to various persons, and especially a bed and its furnishing (*unum Torum harniziatum*) to a man of Tavistok. The Commissary ordered the Prior to reform all these things and to show cause also by St. Peter ad Vincula, why he should not pay the procurations which he had refused to pay.

[81] *Reg. Morton*, I. f. 124*b*.

In the account of the Priory of Bodmin the deposition of the Prior, Dns. William John, is left blank ; but the sub-prior, John Huchyn, says that their number used to be ten and now is not. Also that Dns. John Richard refuses to carry a lantern as he is appointed to do, and to obey the ceremonies[82] and commands of the Prior and sub-prior in the observance (*religione*) of St. Augustine, as he is bound to do by the oath he took. Dns. John Walty says that a certain alms was wont *ab antiquo* to be distributed in the cloister, but now is given in the porch of the hall : it was wont also to be distributed by an almoner appointed for the purpose. Dns. David Broker says that they were wont to have a clerk serving continually in the chapel of Blessed Mary, and now they do not. Dns. William Stafford says the same, and adds that there used to be a candle burning before her image. Each of the six monks is ordered to render an account and the Prior to secure reformation by St. Peter's Day.

We must pass over the College of Carenton with its Dean, Master John Edmund, who is sworn to continuous residence, its eight prebendaries and four vicars who ought by their statutes to have three ' pueri ' or two and one clerk at the cost of the prebendaries, but at present have not one.[83] When we reach the College of St. Thomas of Glaseney in Master Shirborne's company we find newer problems. Master John Obye, the provost, says that they do not say Matins ' in media nocte ' according to the statutes and have no dispensation. Master Wm. Nicholl, the sacrist, says that they ought to have thirteen vicars and have only seven. The provost is ordered to make up the number. Further, Master John Pascow, late provost, erased the statutes as to divers things relating to the office of provost, so that no one knows what ought to be done in the office of provost concerning the saying of divine service. Master John Carew, a prebendary, says that divine services are not served at night, as they ought to be according to the statutes. Three other prebendaries appear, one of them Master John Edmond, who bears at any rate the same name as the Dean at Carenton. Then follows for the first time a section headed ' Non Residentes.' Three prebendaries, including Master Wm. Sylk, Archdeacon of Cornwall, appeared by proxy ; two made no appearance. The houses of three of them are said not to be well repaired, ' for they are almost entirely destroyed,' and the fruits of the

[82] *Reg. Morton*, I. f. 125, ' obedit (*for* obedire) serimoniis.'
[83] *Ibid.*

prebends are accordingly sequestered by the Commissary. Master Wm. Pers, a prebendary, says that they are bound by the statutes to distribute 40*s.* annually among the poor, and they do not pay a penny, and this distribution should be made by the sacrist. They one and all say that the 'facultates modernis diebus provenientes' from the church do not admit of the performance of this alms.

Of the seven vicars Dns. John Anger says that the statutes of the college are not publicly read, and the vicars' steward (*senescallus*) does not pay the vicars from what he receives. Dns. John Luky is also holding another vicarage and says that they have not written statutes. They are accordingly given till Michaelmas to provide them. Dns. Wm. Breberveth, who is also vicar of Wynnyer, is told to reside 'in vicaria propria.' The other members of the house who appear are two 'presbiteri de ponte' and two 'anniuellarii,' who are all described as canons.

At Trewardreith the Prior, Walter Barnecoll, the sub-prior and five monks are well satisfied, though the Prior complains that Richard Haringdon of Lanveshow detains from them a tenement worth 20*s.* and more a year, and has done so for four years.[84] At St. Germans Dns. John Serle, the Prior, says that a certain Fr. John Jamys, 'nuper ibidem professus in ordine Sancti Benedicti constitutus,' departed from the priory and his observance aforesaid without any licence asked or obtained, and betook himself to parts unknown to the Prior and his brethren. The six canons say that all is well.

The Abbey of Tavistock provides a little additional colour. The Abbot, Dns. Richard Banham, the Precentor, Dns. John Gylle, the 'Senescallus,' Dns. Ralph Penson, the Prior of the cell (*Selle*) of Cowick, Dns. Henry Denham, and five monks say 'omnia bene'; but the Prior, Dns. Wm. Toryton, complains that Robert Binles, the 'pulsator campanarum,' behaves himself negligently in his office continually. Dns. Nicholas Rewe, a monk who is staying in the Isle of 'Sillegh,' does not appear, nor could do so by reason of the peril of the sea (the time of the year is July) and the distance of ways and other necessary things pertaining to the house. Dns. Nicholas Hille, monk of 'Carck,' did not appear because 'it is said that he serves the cure of Walrage.'[85] Dns. Thos. Cooke appears

[84] *Reg. Morton*, I. f. 126.

[85] 'Carck' may be 'Cowick' misread by the clerk. 'Walrage' is Oldridge.

and says that he was professed earlier and before Dns. Thos. Crokker, yet now he has been ejected from his place and from his seniority, contrary to the statutes of the house and of the Order. Subsequently, on the same day, the Commissary reformed the injury done to him and placed him in his own place according to the statutes of the Order.

At Plympton, Dns. David Berklegh, the Prior, complains that the pension of the church of Bridstowe, amounting to 20 nobles a year and due by custom to the priory, is subtracted and detained by Master John Fulford, the present rector, and has been so for a year and a half. Dns. Wm. Howe, the Prior of Mersh, belonging to the same house, complains that John Sayer of Exeter has unjustly detained for ten years 7*s.* per annum due from a tenement at Exeter near the Gild Hall. Appearance is also entered, but at 'Penrym,' by Dns. John Austyn, the Prior of St. Antony, in Cornwall, and one of his canons, whereas Dns. Wm. Blower, canon of Plympton, is absent 'quia est apud Mersh.' Less creditable is the case of Dns. Henry Tancrett, who does not appear, and was not cited because he is running about on the borders of Wales 'in Appostasia,' and incurring sentence of excommunication for departing without licence. Dns. John Pollard is absent since '*vacat studio suo* in universitate Oxonie'—a delightful phrase befitting a 'scholar.' Twelve other canons are mentioned as present.[86]

The collegiate church of the Blessed Mary of Slapton affords an instance in which the visitation is not concluded, but adjourned (*Commissarius continuavit Visit.*). The collegiate body, which the scribe calls in the caption a 'priory,' seems to have consisted of a Rector, Dns. Vincent Cooke, a 'minister,' a 'sacrist' and one 'socius,' two 'secundarii' and two 'coriste.' The books are not well repaired, nor are the desks (*disci*) or ambons in 'playnching,' and the glass of the windows is broken. These are to be repaired before Easter. They are to exhibit a faithful inventory of all and singular ornaments, books and 'iocalia' before Michaelmas. Further, they are to write anew the copy of the statutes before the next archidiaconal visitation, and also to exhibit a perfect *compotus.*

Of the two remaining priories, Cornworthy and Totton (Totnes), there is little to say. Dame Thomasia Dynham, the Prioress of Cornworthy, has only three nuns, and we

[86] *Reg. Morton*, I. f. 126*b*.

know nothing save their appearance. But Dns. Wm. Cooke, Prior of Totton, says that Roger Newnant was the first founder of the house, and now the King of England succeeds by the forfeiture of the Lord de la Souch, still living. By virtue of the said foundation he is bound to have in number twelve, and now there remain only four. Hence the Prior is ordered to make up the number of twelve monks as quickly as he can. The Prior says, further, that a certain Dns. Wm. Frank, lately a professed monk in the said house, by his acts of carelessness, negligence, spoliation of divers goods and clothes which were in a certain chest (*cista*), together with the common seal of the convent with which he sealed blank deeds (*tabulas nudas*) and with the same sealed for himself a deed of pension of 6 marks annually for life. The sentence is ungrammatical, but the meaning is plain, as is the conclusion : ' and now is in the prison of the Bp. of Bath and Wells.' There are only three other monks whose names are given, and one of them is not professed.

The record characteristically concludes [87] with the document at the bottom of the file and earliest in date, viz. the return to the Commissary's notice of the visitation, directed to the Archdeacon of Cornwall and dated June 16 [1492].

VII

We have left to the last a really wonderful example of a fifteenth-century visitation admirably conducted and, on the whole, well recorded.[88] James Goldwell, Bishop of Norwich and builder of the chapel of All Souls College, died in February 1498/9, and the temporalities were restored to Thos. Jane on July 21, 1499. Morton issued a commission (February 26) to Roger Church, Decr.Dr., which was exhibited before him and read ' in a loud and intelligible voice ' by Wm. Potkyn in the Consistory of Norwich Cathedral (March 8). Then come thirty-seven institutions by Dr. Church, and the appointment (May 15) of Robert Patricke or Partricke, an Augustinian of Westacre, as Prior of Weybridge [89] by the Archbishop himself, in default of the brethren, and ten collations of benefices, also by Morton. Next is

[87] *Reg. Morton*, I. f. 127*a*, *b*.
[88] *Reg. Morton*, II. ff. 2–121*b*.
[89] *Ibid.* f. 5.

entered the patent (May 4) of Wm. Potkyn as Principal Registrar of the Consistory of Norwich, and its confirmation by the Prior and Chapter (May 8). On March 30 'Florencius Clowchorriensis episcopus' (Bishop Woolley of Clogher) ordains two acolites, eleven subdeacons (five being monks of Norwich), three deacons and four priests. On April 22 Dr. Church holds the Easter Synod in Norwich Cathedral, and a week later in the conventual church of the Holy Trinity, Ipswich. We are given the list of 'abbots, priors, deans and prioresses' and 'other religious men' who appear or ought to appear. The next section contains 106 testaments and last wills, to which Dr. Church grants probate (the last on July 24), followed by another with thirty-two more. Of the first series forty are in Latin, the rest in English, except one (witnessed by two priests) in which the supply of Latin dried up after a few formal lines,[90] and the rest of the testament is in English. John Fyncham of Fyncham makes his testament in English, his 'ultima voluntas' in Latin (ff. 34–5). Of the seventeen wills of clergy in the two series seven are in Latin, ten in English. At the end of the section is a copy of the last will of Richard Daniell of Hadlye (November 4, 1494), with probate (March 16, 1494/5) certified by John Boswell, Registrar of the deanery of Bocking, and fastened into the Register without being transcribed.[91] Dr. Church's receipts for fees of all sorts from March 8 to July 22 form a detailed account of twenty-four folio pages in double column [92] and amount to £585 6*s.* 10*d.* Of this the Archbishop receives through Master Potkyn £548 7*s.* 5*d.* on December 31, 1499, and £24 more on May 20 following.

The visitation of the archdeaconries of Suffolk and Sudbury covers 489 parishes, deanery by deanery. The name of the 'perpetuus decanus' is not always given, but that of the sworn apparitor or 'nuncius' invariably. The holders of the great tithe, whether incumbent or monastery or other body, were summoned, and also the parochial clergy. Returns are made for each parish by 'inquisitores' or 'testes synodales,' varying in number from one to five. The area is large enough to give real importance to the returns. Of the 814 (426 + 388) clergy summoned about 120 did not appear, and many of those who did appear failed to produce either titles or

[90] *Reg. Morton*, II. ff. 21*b*; *cf.* 54*b*, a similar case.
[91] *Ibid.* f. 61.
[92] *Ibid.* ff. 63–74*b*.

letters of orders, or both. A few are noted as excused on various grounds—*e.g.* infirmity in the case of incumbents of Saxmundham and Stuston, decrepitude (Wrottyng Magna and Preston), old age (Nedging), blindness ('Gnateshale'). Geddyng, Aschele, Hasele, Kenteford and Finbergh Parva are vacant. It was no perfunctory inquiry, and though the Commissary must not be assumed to have examined all the clergy because he examined some, the fact that only two or three on examination incurred strictures stands to the credit of the rest. Dns. Wm. Mawndevild, Rector of Elmyswell, being examined of and upon the administration of the VII Sacraments, made no straightforward answer : he is suspended from administration of the fruits of his church, monished to provide before St. John Baptist Day another suitable chaplain to serve the cure, and to attend classes (*exercere scolas*) to learn the things specially needful for every curate.[93] Dns. Edm. Wynchester, parochial chaplain of Lydgate, being similarly examined, was judged 'inhabilis' and monished no longer to serve in any cure, but to look out for a stipendiary post.[94] The Judge seems to have regarded a moral charge against him as 'purely malicious' and accepted a denial on oath. Dns. John Springe, Rector of Pettaugh, was more unsatisfactory.[95] He had stood excommunicated in the Arches Court at the instance of John Moyse of Wynston, and so continued more than two years, but still celebrated mass, thereby incurring irregularity. He was ordered to remove a suspected woman from his house within two days ; was charged with divulging confessions (that he denied) ; was regarded 'in patria' as 'inabilis' to serve a cure. When examined concerning the essential words (*de verbis substancialibus*) of the consecration of the Body of Christ and other articles requisite in the office of a curate, he gave answers entirely inadequate and was prohibited from administering sacraments till he had learnt to understand the things which concern a cure of souls.

Between 125 and 130 of the 814 clergy are styled 'magister' and nineteen 'frater,' including the Rectors of Donyngworth and Swyllond and the Vicar of Dersham. Most of the 'fratres' found it inadvisable to appear ; but Fr. Nicholas Elmham, parochial chaplain of Geselham, has an instructive history. A suspected woman in his house he

[93] *Reg. Morton*, II. f. 111*b*.

[94] *Ibid.* f. 117*b*. 'Sed providebit se pro uno servicio stipendario.' [95] *Ibid.* f. 107*b*.

alleged to be his own sister, but was ordered to remove her. On his next appearance he stated that she had gone to distant parts, but also *proved that she was his sister*. It was alleged, however, further that he was ministering without licence, and he was admonished to reside in his priory before St. John Baptist Day.[96] Similar instances are sufficient in number to be worth noting. The parochial chaplain of 'Elgh,' Dompnus John Hengham, is a professed Cistercian monk, but is using secular attire without apostolic dispensation, incurring 'apostesiam' : he admits it, and is not ordered to go back to his monastery but to show himself at the next court 'reformed in the habit of his profession.'[97] Dns. Robert Bradley, Rector of Gunton, uses secular attire without dispensation, though a canon professed.[98] At Huntyngfeld Dns. William Freston, monk, uses the secular habit without dispensation and is inhibited from saying mass,[99] but vanishes. So also does Dns. Thomas Spekke, monk, charged with celebrating mass at Bawdeshey and Alderton, having neither licence nor capacity.[100] At Thornham Parva Robert Crane, the rector, is described as 'monachus' and stated to be using secular attire undispensed.[101] Dns. Clement Heythe, Rector of Stanfeld, who did not appear because he is infirm, is doing the same, though 'vir religiosus professus.'[102]

There are fewer cases of plurality than we should perhaps expect, but a number of curious examples of a predilection of the clergy for other work than that primarily assigned to them. The student of local conditions may perhaps know better than we do why Master John Oby, Rector of Uggeshale, should prefer, while retaining his rectory, to live at Blytheburgh and perform the office of parochial chaplain there[103]; while Antony Calver, Rector of Dalangho, did not live there, but served the cure of Orford.[104] Master Robert Salwys, Rector of Engate, does not live there, but in London, celebrating an 'annuale servisium.' Thomas Byngle, the Rector of 'Elgh,' also lived in London. John Benne, Rector of Mykylfeld, does not reside but 'celebrates in other places,' his cure being left to a 'capellanus Scotus,' of whom the only information is that his Christian name was Alexander and that he did not appear[105]

[96] *Reg. Morton*, II. f. 97.
[97] Elough, Ellow, Willingham All SS. *Ibid.* f. 95*b*.
[98] *Ibid.* f. 97.
[99] *Ibid.* f. 99*b*.
[100] *Ibid.* f. 102*b*.
[101] *Ibid.* f. 111.
[102] *Ibid.* f. 115.
[103] *Ibid.* ff. 101, 98.
[104] *Ibid.* ff. 102, 103.
[105] *Ibid.* f. 107.

at the visitation. There are very few instances in which, even in case of non-residence, it is stated, as it is in regard to Edmund Sevyer, Vicar of Bokkyng Asshe,[106] that he leaves the church unserved. Even Dns. Robert Watteson, or Watson, Rector of Frostendon, an absentee who lets the rectory and chancel fall into great ruin,[107] leaves a curate there while he himself serves the church of Bedfeld. Whether the same is true of Thomas Eyer, Rector of Ascheby, who prefers to serve the cure of Denyngton under Master John Colette, there is no evidence,[108] but Thomas Daywell, Rector of Brome Utraque, who serves a cure in Norwich, certainly leaves a curate behind, as also does Master Richard Grene, Rector of Rykynghale Inferior, absent 'per diversos annos.'[109] Sometimes, as at Bernaby, Martlesham, Thornham Pylcok, Wyuerston, Fakenham Magna, Hepeworth, Rykynghale Inferior (f. 112*b*), Wattefeld, Hornyngesherth Parva, Hendegrave, Lakford, Bradfeld Sencler, Drenkeston, Wulpett, Brandonfery, Heryngeswell, Tudinham, Bildeston, Cokefeld, Cavyndysch, Hertest c. Boxstede, Ketilberghston, this absence is the subject of presentment by the 'inquisitors.' But there are other cases where the judge discovered it by personal inquiry, though no complaint had been made. In one case the 'inquisitors' did not appear, but the incumbent, Dns. Edmund Hubberd, Rector of Welyngham Marie, did so. He took the oath of obedience to the jurisdiction, but produced, it would seem, none of the documents required of him,[110] and publicly told Master John Vaughan, I.L.D., sitting there judicially, says the scandalized scribe of the acts : '*In vulgary.* Ye may nother suspende nor acurse me And if ye may so do I defye all my feythe'—a contempt which he was subsequently compelled as publicly to purge.

Failure to keep rectory or chancel, or both, in repair may be evidence of poverty as well as of neglect, especially when it is not a non-resident rector who is at fault, and also, though not necessarily, where the appropriators are a religious body. At Ramesholt, where the chancel is so ruinous that rain falls on the altar,[111] and Asshefeld, where it is insufficiently repaired,[112] the appropriators are in both cases the Prior and Convent of 'Buttle'; and we may feel some confidence that if the Prior

[106] *Reg. Morton*, II. f. 107.
[107] *Ibid.* ff. 99, 108.
[108] *Ibid.* f. 108.
[109] *Ibid.* f. 110*b*.
[110] *Ibid.* f. 96.
[111] *Ibid.* f. 103*b*.
[112] *Ibid.* f. 106.

of Buttley had served the cure of Ramesholt, as the Prior of Letheryngham, we are told on the same page, served the cure of Letheryngham himself,[113] that hole in the roof would have been mended. But it is unlikely that Dns. William Beyham, Rector of Askeby, who was resident, yet allowed his rectory to be 'valde ruinosa,' ought to be placed in the same category as Master Robert Tompson, Vicar of Lowystoft, also resident, whose neglect of repairs is described as 'a bad example,' or Dns. Thomas Mannyng, Rector of Glemham Parva, who is ordered on April 16 to repair his rectory before the Feast of St. Peter, 'quod dicitur advincla,' under penalty of 40 shillings. Dns. Henry Evyrton, the infirm Rector of Saxmondham, lets his house fall into decay, but no penalty is attached to him, or to Dns. John Jentilman, Rector of the second mediety of Wurtham, or John Brown, Rector of Fornham Genefefa. All of these were resident, and it is noteworthy that, while the number of cases of non-residence (48 out of the 489 parishes) is high, in two only (Bernaby and Frostendon) is this coupled with a charge of neglect of buildings.

When we come to examine the character of the other cases which are included in the 'comperta et detecta' of the visitation, we find the variety of cases which we should perhaps expect. Of moral offences (incontinence and adultery) between lay persons there are sixty-four, the number being made up as a rule by the inclusion of both parties to the offence, and with these are seven cases (involving ten persons) of 'fostering immorality.' There is one case of incest and one or two of bigamy, and there are eight cases in which charges of incontinence are made against clergy; two of these are certainly unfounded, one is established, and two are probably true. One case is a strange one. Dns. Richard Hilton, Rector of Ryngeffeld and Redesham Parva, is charged with bringing about an arrangement by which Ralph Colyn, late Rector of Barsham, received from Dns. Thomas Say £20 for the autumn tithes of Barsham, though only worth, it is said, £5, and thereupon resigned and was succeeded by Say. If so, it was a clear case of simony, but Hilton denied it, and no proceedings were taken against Say. On the other hand, there is a further charge against Hilton of 'fostering immorality' in getting out of the way Ralph Colyn and a woman

[113] *Reg. Morton*, II. f. 103*b*.

with whom he is now living as her husband 'in remote parts.'[114] It looks like a well-meant but at best highly indiscreet effort to hush up a scandal.

Many of the cases mentioned above belong to the tragedies of rural life. Of actual prostitution there are only three cases, two being associated with 'The Grehonde' and 'The Griffen' at 'Newmerkett Marie.' Three women are charged with refusing to live with their husbands and one man with his wife. Of jactitation of marriage there is only one case.[115] It is never quite easy to surmise what will be the cumulative effect upon the mind of a reader of evidence tabulated in this way, since much depends upon his familiarity with similar cases. If we may venture a personal opinion, the result is not unfavourable to Suffolk or to its clergy. In the case of the parallel Norfolk visitation we do not unfortunately possess the details, because the scribe has not entered them in the register, but he gives us[116] in one mass the 'correcciones.' For Norwich and the Archdeaconry of Norfolk the list would seem to be complete, but we may suspect omissions in regard to the Archdeaconry of Norwich. There are only two cases of non-residence—Master John Burton, Rector of Snoryng Parva, who is bidden to return within a month, and Dns. Thomas Beket, Rector of Depdale, who receives a licence to continue the studies in the University of Cambridge, in which he alleges himself to be constantly engaged.[117] There are thirty-five cases of immorality, including, as before, pre-nuptial relations, and nine more in which clergy are implicated. Five of the latter are admitted, two successfully rebutted, one is doubtful, and the other, that of John Richardson, Rector of Reymerston, shows that the compurgation, which is often assumed to be a mere form, did not always tell in favour of the accused.[118] Of cases of prostitution there are two, of 'fostering immorality' one. There are two charges of marrying within prohibited degrees, and one in which a layman, charged with marrying a woman in the lifetime of her husband, alleges that she had been lawfully divorced (*i.e.* presumably a decree of nullity had been pronounced) by Master Parker, Commissary of the Bishop of Lincoln. He is ordered to produce proof and to appear before the Archbishop in the Court of Audience.[119]

[114] *Reg. Morton*, II. f. 96. [115] *Ibid.* f. 98*b*. [116] *Ibid.* ff. 75–78.
[117] *Ibid.* f. 76. [118] *Ibid.* f. 76*b*. [119] *Ibid.* f. 77.

With one exception the remainder of the Suffolk cases are of the type with which the student of such matters is familiar. Absence from church without reasonable cause (twenty cases), failure to go to confession (three), talking in church as a general practice (eight), selling shoes on Sunday (two), working on the Dedication festival (one), subtraction of tithe (three—a very small number), holding ecclesiastical lands to farm being laymen (three), profane swearing (one), sowing discord among neighbours (three), letting a horse make a mess of the churchyard (one), overthrowing the liberty of the church by arresting or attaching a horse out of the churchyard without the rector's leave, the horse being a mortuary and the offence sacrilege.[120] The exception to which we have referred is of a curious kind. Besides a case of heretical pravity at 'Rushbrok,' where a man had made a contract with the devil,[121] there are six of which we would know more than, except in one case, we are told. At 'Northalis' Alice, wife of Henry Dorannt, is noted for that she uses supersticious art, for she says that she has the art of prophesying concerning future events.[122] At Belynges Parva Alice Fynne is charged with using 'magical art,' for when Andrew her husband died, he asserted that his death was due to her supersticious art. She produces four women as 'compurgatrices' and is dismissed.[123] At Bargham Margery Baker uses supersticious art, contrary to the determination of the Church, viz. 'metyng wyth a yerde' for fevers, and is suspended from entering church.[124] A similar case at Stoke cum Neylond is that of Rosa Bucke, viz. 'metyng of Nete and other seke bestes.' She admits it, and says that she has a sort of confidence (*quandam fidem*) that in this way cows and animals were always being cured of their infirmities. The Judge orders her not to do it any more, and to walk in procession in Stoke church with a little bunch of herbs in one hand and a wax taper worth 1*d.* in the other, with bare feet and clad in a shift (*camisia*), and so to go to the high altar, standing there till the Gospel, and then to offer the taper to the principal image of the church and on the following Sunday to do the same clad in her outer garment (*toga*).

[120] *Reg. Morton*, II. f. 102.

[121] *Ibid.* f. 115, 'publice asseruit quod promisit diabolo talia promissa quod nuncquam ero salvatus.' In the margin is written 'mortuus est.'

[122] *Ibid.* f. 100. [123] *Ibid.* f. 105*b*. [124] *Ibid.* f. 106*b*.

She performed the penance accordingly.[125] At 'Bergh' in the 'deanery' of Thyngowe and Thedwastre, treated as one, Etheldreda, wife of William Nyxon, was charged with using supersticious art, 'or at any rate divination' (*arte sortilegii*), for she called to a certain John Lathe, servant of Margery Laystoun, when he rode on his mistress' business towards Bury, near her house, 'Beware, for the horse on which you are riding will have been stolen within three days.' He told his mistress, who went to Etheldreda's house to ask her to be kind enough to tell her [126] the names of the persons who would steal the horse. Etheldreda refused to disclose them, but said she could teach her a way in which her horse should not be stolen.[127] 'For if you are willing to give your horse holy bread (*panem benedictum*) and holy water, your horse would not be stolen.' A further charge of 'supersticious art' is that she said publicly that if anyone had been despoiled of any goods [she could recover them] provided he were willing to give her 3*d*. for each shilling's worth of the value of the goods so lost or furtively carried off. The natural inference is probably unfounded, but she did not put in an appearance and, being declared manifestly rebellious, was formally excommunicated.[128]

But few cases in this or any other episcopal register known to the writer can vie in interest with a case at Aschefeld (Ashfield in the deanery of Blackbourne), to which the scribe attaches sufficient importance to allow it more than a whole page to itself.[129] Mariona Clerk is alleged to use supersticious art, for that she has, as is asserted, the art of healing divers persons from several diseases, and also of prophesying concerning evils happening in the future and of declaring the mishaps (*infortunia*) of those who come to her and of pointing out hidden treasures. In reply to the articles she said that she had the knowledge (*scienciam*) aforesaid, and, being asked by the Judge from whom she learnt it and where, she made the astonishing answer, 'From God and Blessed Mary, and from *lez Gracyous ffayry*.' 'What sort of thing,' said the Judge, 'is "lez Gracious ffayry"?' To which Mariona answers that 'they are certain little people (*parvule persone*)'

[125] *Reg. Morton*, II. f. 120.

[126] *Ibid.* f. 113*b*. The scribe's Latin is a little shaky, for he writes 'ut velleret.'

[127] The Latin becomes worse: 'dixit quod docerem sibi artem ut equus eius non furaretur.'

[128] *Reg. Morton*, II. f. 113*b*.

[129] *Ibid.* f. 113.

which give her information whenever she wishes. The Judge seems to know more about the subject than we might have expected, for his next question is, 'Do the little people who are called "lez ffayry" believe in the Father and the Son and the Holy Spirit or not?' She says that they believe only in the Father Almighty. The questions which follow show the direction in which the Judge's mind is tending. He asks if she has ever been in Heaven, and she answers Yes, she has. Did she see God in Heaven? Yes, she saw God in Heaven, having a mantle (*togam*) of golden stuff (*de panno aureo*). Further, she has very often talked with the Archangel Gabriel and St. Stephen by the power of 'lez Gracious ffayry.' She adds that there is a treasure hidden in a certain place in the town of Bury called 'Moises halle,' and that the Jews have the custody of that treasure. Asked on whom the Jews believe, she says 'On the Father Almighty.' The Judge's final questions are: 'Have you ever been at Canterbury by means of that Gracious Fairy of yours?'[130] Answer, apparently, Yes. 'Where is the tomb of St. Thomas the Martyr?' She says it is in the burial-ground (*in cimiterio*)!

The case of Agnes Clerk, her mother, is next taken. The charge of supersticious art is based on her assertion that when she was young (*iuvenis*) she had many times had conversation with 'lez Elvys,' so much so that for a time her neck and head were twisted backwards (*retrouersa erant*). And it chanced that there came to her father's house a certain aged man and he blessed her and restored her to health. And the old man said to her, 'You will have a daughter who will be very knowledgeable (*valde sciens*) and holy and will do many miracles, so that the whole countryside (*patria*) will marvel at the knowledge and holiness of your daughter.' She said this was told her three or four times before she was married. A further charge is that in the last Palm Sunday week she brought a stick of holly (*unam virgam de lez hulvyr*) to the curate of Ashfield to be blessed among the Branches (*inter Ramos*), with a request (*sub ea condicione*) that this should be done in the name of John Clerk her husband, her own name, and that of her daughter Mariona. Asked by the curate why she wanted it to be done, she answered that by virtue of that stick so blessed she would beyond any doubt find hidden treasures, to wit a cross of

[130] 'Virtute illius lez Gracyous ffayry.'

silver of great price, chalices and gold in great abundance. She admitted the whole charge, but said in excuse that Marion her daughter had this stick from Gracious ffayry and that it was at her desire that she had gone to the curate. Further, she said that it happened that when her daughter was not yet two years old and was sick of the pestilence even unto death, so that the signs of death were appearing, there came into her house a white dove (*columba*) which flew round and round about the bed on which Marion was lying ; and immediately the said Marion told her parents that the dove was St. John's dove, and within a short time the child was restored to health ; and the dove did not leave the house and garden for two days afterwards. The Judge asked her how much profit (*lucrum*) she had received on account of her daughter, and she said that it amounted to 2*s*. from various persons and not more.

John Clerk, we are told, confirms the evidence of his wife and daughter in everything, and says that as for the white dove it was true, for he saw it ' et obtulit se hoc iuraturum.'

As the result of this examination and the consequent admissions, Master Vaughan, sitting judicially in Norwich Cathedral on June 17, 1499, declares that all arts of this kind are supersticious and suspected of heretical pravity, and gives the accused until three o'clock in the afternoon to show cause why they should not be declared guilty of heretical pravity unless they voluntarily recanted their opinions. When the time came they all submitted and promised not to do these things any more, and were all three condemned to a public penance of some elaboration in Norwich Cathedral, the church of Ashfield, the market place of Bury, and a chapel in the churchyard of Wulpett. The student who reflects with scientific detachment upon the combined influences of folklore, legends of the saints, stained-glass windows and a certain kind of temperament, may allow himself perhaps to be sorry for all three and certainly for the father : ' as for the white dove, it was true : he saw it himself, and to that he will take his oath.' We will leave to other antiquaries to discover why the Archangel Gabriel and St. Stephen are mentioned together. Perhaps if they visit East Anglia ' lez Gracious ffayry ' may show them, and we will hope that ' lez Elvys ' will not turn their heads.

CLAUDE JENKINS.

THE ABBOT TRITHEMIUS[1]

JOHANNES TRITHEMIUS, whose name is known to posterity solely in this Latinised form, was born in 1462, as the son of a well-to-do vine grower at Trittenheim, a village lying on the Mosel, not far below Trier. He grew up in the house of a stern stepfather, who ill-treated him and entirely neglected his education. From his earliest days he appears to have felt a passion for learning ; and at the age of fifteen he had the vision of a youth, finely clad, and holding in his hand two tablets, the one inscribed with letters, the other with pictures. Asked to choose, he selected the former, though as yet he could not read ; upon which the youth exclaimed ' See, God hath heard thy prayer and hath given thee what thou desirest, and indeed more than thou couldst desire.' Thus encouraged, he visited a neighbour's house secretly by night, and in this way, we are asked to believe, he learnt within a week the alphabet, the Pater Noster and the Creed, and after a month could read German books with fair facility. Fortunately for him, an uncle was impressed by the boy's precocity, and helped him to break loose from so uncongenial a home and devote himself to a life of study.

[1] Trithemius can best be studied in his own works—Johannis Trithemii Spanheimensis, *Opera Historica*, ed. Freher, 2 vols. (Francofurti, 1601), containing in vol. ii. his *Epistolae Familiares*, and *Opera Spiritualia*, ed. Busaeus.

There are three modern biographies: Dr. Silbernagel, *Johannes Trithemius* (Landshut, 1868) ; W. Schneegans, *Abt Johannes Trithemius und Kloster Sponheim* (Kreuznach, 1882) ; and the article in the *Deutsche Allgemeine Biographie*. Further details in J. J. Hermes, *Ueber das Leben und die Schriften des Joh. v. Trittenheim, genannt Trithemius* (Beilage zum Jahresbericht des Gymnasiums zu Prüm), 1901 ; G. Mentz, *Ist es bewiesen dass Trithemius ein Fälscher war?* (Jena, 1892) ; J. Marx, *Geschichte des Erzstifts Trier* (Trier, 1859) ; M. Ziegelbauer, *Historia Rei Literariae Ordinis S. Benedicti* (Aug. Vind., 1754) ; *Rheinischer Antiquarius* (Coblenz, 1869) ; F. X. v. Wegele, *Gesch. der deutschen Historiographie* ; K. Morneweg, *Johann von Dalberg* (Heidelberg, 1887) ; Josef Hansen, *Zauberwahn, Inquisition und Hexenprozess im Mittelalter* (Munich, 1900).

Good estimates of Trithemius and his contemporaries will be found in the following general histories : J. Janssen, *Gesch. des deutschen Volkes* ; F. v. Bezold, *Gesch. der deutschen Reformation* ; L. Geiger, *Renaissance und Humanismus* ; G. Egelhaaf, *Gesch. der deutschen Reformation* ; and H. Ulmann, *Kaiser Maximilian I.*

Trithemius first found his way to the neighbouring high school of Trier ; then after visiting Köln and the Netherlands, he established himself at Heidelberg, Köln's chief rival for the intellectual leadership of Western Germany, and a citadel of scholasticism in its final phase. Here he became acquainted with several of the foremost German humanists, Rudolf Agricola, Jakob Wimpheling and Johann von Dalberg (soon afterwards Bishop of Worms)—men who upheld the traditions of learning and education diffused by the famous school of Hegius at Deventer and by those still earlier pioneers, the Brethren of Common Life.

The young scholar stood all unknowingly upon the threshold of a new age, when that process of secularisation, of which the Italian Renaissance is the crowning example, was already being transplanted to Germany, with quite different and even more unexpected results. But as yet humanism in its German form was closely linked with the strict mediæval tradition of the Schoolmen, and Trithemius, retaining throughout life the doctrine which he had imbibed at Heidelberg, regarded theology as ' the queen of all sciences.' He grew up in the spirit of that greatest of Rhenish mediæval scholars, Nicholas of Cusa, of whom he himself was afterwards to write as ' an angel of light and peace amid the gloom and confusion ' of fifteenth-century Germany.[2] In both men zeal for philosophy and the classics was a mere means to an end, and that end was the perfecting of the Christian faith through knowledge. They recognised that St. Jerome, for instance, owed much of his greatness to his study of the classics, and this was clearly an example to follow. But they remained singularly free from the ' empty speculations and hair-splitting ' which even in their day were too often associated with Scholasticism.

Trithemius, then, pushed his inquiries into many fields, and was one of the first men in Germany to acquire a working knowledge of Greek and Hebrew. In Greek his teacher was the famous wandering scholar Conrad Celtes, with whom he became extremely intimate, and whose daring and unconventional views—blending mysticism and scepticism into a creed not far removed from polytheism and adopting a code of morals which was distinctly pagan—can hardly have failed to broaden his outlook upon life, though without undermining his faith. In Hebrew he was well grounded by a converted

[2] *De Vera Studiorum ratione*, cit. Janssen, i. p. 4.

Jew, who afterwards followed him into the cloister; but at a later date he was able to supplement his knowledge under Reuchlin, the real founder of Hebrew scientific studies in the Christian West, whose long quarrel with the obscurantists of the Rhine prepared the ground so materially for Hutten and for Luther.

Trithemius is a striking instance of the precocity with which academic talent developed in the age of the Renaissance: for he was only twenty when an event curiously reminiscent of Luther's youth decided his future career. On his way homewards from Heidelberg in January 1482 he stopped at the Abbey of Sponheim, and when he and his friend pursued their journey, they were caught in a severe snowstorm and most reluctantly forced to turn back. 'You will see,' he said, with what he himself came to regard as prophetic insight, 'that I shall remain there.' Within a couple of months he had entered the novitiate, in November he took the final vows, and in July of the following year, though still the youngest member of the community, he was already elected as abbot. So singular a selection inevitably suggests that there was something abnormal in the affairs of the monastery, and this is confirmed by Trithemius' subsequent history. Sponheim was a Benedictine foundation, dating from the year 1123. In the early fifteenth century it had become corrupt and attracted the attention of the Council of Basel. Its abbot having failed to enforce reform from within, the Count Palatine, in whose territory the abbey lay, sent a commission of inquiry, which ejected all refractory monks, secured the election of a new abbot and incorporated the abbey with the reformed Bursfeld congregation (which then numbered about ninety cloisters). This had taken place as recently as 1469, and as the old trouble and intrigue were ere long to revive, it is permissible to assume that Trithemius owed his selection, at least in part, to his youth and inexperience, and to the calculation that he would be unequal to the task of maintaining discipline. It is true that three abbots took part in the election, but they on their side may have acted from the opposite motive of entrusting a young and energetic enthusiast with the task of reform. In any case, Sponheim under Trithemius may be taken as focusing, as it were, upon a narrow screen all the rival tendencies which rent German monasticism on the eve of the Reformation.

The young abbot, while extremely conscious of his own shortcomings, set very high standards before his community, and was tireless in his efforts to maintain them. In an address to the monks, he reproaches them for choosing one so little qualified for the office, as to be 'forced to teach and to learn at one and the same time,' and he re-echoes the phrase of Jeremiah, 'Ah, Lord God! behold, I cannot speak: for I am a child.' 'Puer sum, inquam, vita, scientia et aetate, doctrina parvulus, ingenio exiguus,' he tells them; and much later in his career he declares that whenever his election comes to his mind, he is overcome with sadness and tears.

From the first he set himself to literary work, and again it can hardly be a mere accident, but rather must have corresponded to pressing needs of the day, that he should have concentrated upon the decay of monasticism, and indeed of the priesthood as a whole, and the crying need for reform. 'I see,' he writes, 'that all evil in the Church arises from the ignorance of the priests,' and laments over the decay of morals in his order become a permanent rubric in his writings. The series of Exhortations which he addressed to his monks, his commentary upon the Rule of St. Benedict (*De Regimine Claustralium*), the statutes which he compiled for his provincial chapter, the new form of cloister visitation which he proposed, his book in praise of the Carmelite Order, reveal him as an intensely spiritually-minded man, but also as one whose standards were no longer in unison with that age of laxity and fermentation. When we find him suggesting that there should be a daily meeting of the monks after Prime, to discuss publicly all their actions and thus ensure general good behaviour, we are left wondering whether this is really a counsel of perfection, or a method liable to provoke the very backbiting against which he had set his face. How seriously he regarded the situation of the Church is shown by some of his recorded speeches at the General Chapter of his Order, lamenting the prevailing greed, ignorance and simony, and the neglect of monastic rules, especially as regards admission and visitation. 'Once,' he declared, 'the princes erected and endowed cloisters, to-day they plunder and destroy them'[3]; and again, 'The days of building cloisters are past, the days of their destruction are coming.'[4]

It is but just to point out that Trithemius, with his con-

[3] September 1, 1493. [4] August 28, 1496.

stant insistence on reform, enjoyed the confidence of the Church authorities, and just because of his severe standards was constantly being selected for rounds of visitation. But it none the less remains true that all his efforts to prevent decay proved vain : and nowhere was this more marked than in his own abbey of Sponheim. Neither his severity nor his learning met with the favour of the monks, and there was frequent insubordination. He had constant trouble with his priors, until the sixth to be appointed within the abbot's first nine years of office proved strong enough to retain the post, became a steady focus of intrigue against him, and in the end succeeded in supplanting him.

Yet amid all his reforming zeal and devotional exercises—and here too he was a prolific writer—Trithemius was building up a great reputation for learning, and creating at Sponheim an unique library, which brought the abbey distinguished visitors from every part of Germany and even from abroad. When he became abbot, the library contained only forty-eight volumes ; before he left, he had accumulated over 2000,[5] in many languages. A special feature were the hundred rare Greek MSS. which, again following the example of Cusa, he had set himself to collect. In extreme old age the schoolmaster Hegius, the Thomas Arnold of his day, paid a visit to Sponheim, and on his return home described the library to a large audience of his assembled pupils as *magnum illud mundi iubar*[6] ; while a famous master of Utrecht declared that ' if in Germany there exists a Hebrew or Greek academy, it is at Sponheim.' There seems to be little doubt that the collection was almost unique in Germany at that time, and it naturally helped to spread the fame of Trithemius, not only among all scholars, but among those princes who were affected by humanistic influence. His intimacy with Conrad Celtes, Bishop Dalberg, Reuchlin and others made of him an active member of the Rhenish Literary Society (Sodalitas Literaria Rhenana), which the first of these had founded on the analogy of his earlier Danubian and Vistulan groups of scholars. This association and the historical and learned treatises which he produced year by year won Trithemius high favour. For instance, in 1503 he was summoned to Frankfurt, dined with the Papal Legate and the Elector of Köln, and above all with Elector Joachim of Brandenburg, whose confidence he

[5] *Epistolae*, II. 2, p. 508. [6] Marx, *Gesch. des Erzstifts Trier*, I. ii. p. 442.

rapidly won. This young prince, the first Hohenzollern to show any special zeal for learning, found himself the ruler of a land still conspicuous for brawling and lack of culture, where, to use his own phrase, a man of scientific distinction was a white raven. He was therefore eager to attract to Berlin such men as Trithemius—*Germaniae decus, totiusque archa sapientiae*, as he addressed him[7] : and the six months which the Abbot spent there were signalised by the foundation, on his advice, of the new University of Frankfurt-on-Oder. Berlin seems to have been not uncongenial to Trithemius, but he sums up the social habits of the Mark in the amusing verdict : ' festivitates et ocia pauperiem, ieiunia morbos et potationes mortem accelerant, quoniam in his tribus plus quam caeterae nationes Germanorum videntur excedere.'[8]

Meanwhile a crisis had been reached in the long intrigue conducted by the prior and a section of the monks against their superior. The county of Sponheim became involved in an armed quarrel between the Elector Palatine and Duke John of Simmern : and Trithemius, siding with the former, found it necessary to fly for his life. The Abbey possessions were plundered, and his enemies evicted Trithemius's servants, curried favour with the Duke, and were so sedulous in spreading libellous charges, that the Abbot altogether declined to return to Sponheim until the guilty parties were punished. He had many sympathisers among his colleagues of the Bursfeld congregation, but political reasons made a settlement difficult, and it was obvious that Trithemius himself had acquired an utter distaste for Sponheim and his monkish 'frogs,' who, he tells us, were always croaking ' Malumus *a*ratorem quam *o*ratorem.' ' If needs must be,' he writes, ' the whole world is my fatherland. . . . God is everywhere ; with light heart I give up my cloister, where I found much poverty and trouble, but little peace and joy.' To return to a company of ungrateful men he declared to be ' folly ' rather than ' piety.' Finally in the winter of 1506 he was appointed to the vacant Abbey of St. Jakob at Würzburg—one of the fairly numerous ' Scottish ' foundations of Southern Germany. Its revenues were extremely scanty, but he was able to eke them out by a prebend at the Cathedral of Würzburg. It is characteristic of the falling

[7] *Epistolae*, p. 532. [8] *Ibid.* p. 482.

standards of the time, that his old rival, Prior Nicholas, was soon afterwards elected Abbot of Sponheim.

How simple and unworldly were the views of the worthy Trithemius may be gathered from the persistence with which he resisted the efforts of more than one princely patron to win him for the career of a Court humanist. Both the Elector Palatine and Joachim of Brandenburg would have welcomed him with open arms, and the offer of a free house and ample funds was transmitted to him, on behalf of the Emperor Maximilian himself,[9] by three of the foremost scholars of the age, Conrad Celtes, Peutinger and Pirkheimer. To accept would, he argued, have been contrary to the spirit of his monastic vows and a betrayal of his Bishop's confidence: moreover, 'I am born to letters, whose earnest study detests the din of courts and loves solitude.' Henceforth he rarely left his cloister, and devoted the remaining ten years of his life to historical and other literary studies. He died on December 13, 1516, at the age of 54. *O quam tarde notus, quam cito recedis!*—these words of St. Antony, once addressed to him by the Papal Legate at a great ceremony in Köln, might well have been his motto.

It is obvious that when we apply the tests of a modern and critical age, we cannot rank Trithemius as high as the greatest of his learned contemporaries. But if his influence has long since spent itself, that is not a reason for minimising it. Unquestionably his was one of those names which had captured the imagination of his own time, and a study of his career and writings may help us to understand German mentality at the very moment when it was about to exercise a decisive influence upon the thought and development of Europe as a whole. It is not merely that he commanded the respect and affection of many of his most noted contemporaries, scholars and princes alike: but he enjoyed an almost legendary reputation for learning and wisdom, and his correspondence contains more than one example of eager adulation on the part of men of standing in the world of letters.[10]

Of Maximilian, who showed him very special favour,

[9] Offerunt et domum et alia quamplura, quibus habitis ociose philosophari possis procul ab omni strepitu.

[10] *E.g.*, Johann Gottfried of Manthal, who writes describing himself as a 'Trithemianus.' *Opera Historica*, ii. p. 530.

Trithemius himself placed on record that 'there is no one in Germany who has a greater thirst for knowledge, a more serious love for every study, and a more genuine pleasure at the prosperity of science and art, than King Maximilian, this friend and promoter of all learned men.'[11] Maximilian was indeed a sovereign worthy of a humanistic age; and Aeneas Sylvius, had he returned from the dead, could no longer have threatened the German princes, as he had threatened their grandsires, that 'if they prefer horses and dogs to poets, they will die ingloriously like horses and dogs.'

Different as the two men were, Emperor and Abbot possessed the same quality of fantasy and romantic imagination, which led the one to dream of uniting Imperial crown and Papal tiara upon his own head, and the other to experiment in magic and demonology! Trithemius was thrice summoned to the Imperial Court—in 1505 to Köln, in 1508 to Boppard, and finally, in 1511, to advise regarding German participation at the Lateran Council. The theological problems which the Emperor invited him to solve during the longest of these visits prompted an elaborate treatise in eight books, which more than forty years later, when the whole religious situation had been radically transformed, was still thought worthy of publication.[12] In this he endeavours, with great learning, to answer such riddles as the following: why mankind only has faith in God, and not knowledge of God, like the angels; why God had not made His will quite clear in the Bible; whether the existence of divine Providence can be proved by reason; whether others than Christians can be saved. It is most instructive to know that the Emperor, only a few years before the emergence of Luther, was speculating upon problems which might seem already to have a certain Protestant flavour. But there is not a trace of the Protestant in Trithemius, and indeed he appended to one of his major works a most explicit assurance, revoking automatically any phrase of his which might ever conceivably be regarded as running counter to the teaching of the Church. Even his least orthodox production, the 'Mystical Chronology,' closes with the words: *in his omnibus nihil credo nec admitto, nisi quod Ecclesia credit catholica.*

It was to Maximilian that Trithemius dedicated the two

[11] *De vera studiorum ratione*, fol. 7.
[12] *Liber Octo Quaestionum ad Maximilianum*, 1550.

books upon which were founded the widespread popular suspicion that he was not merely a man of vast learning, but a magician and perhaps even an unearthly being. These were 'Polygraphia' (1507) and 'Chronologia Mystica' (1508).[13] The first is mainly concerned with 'steganography,' but not content with an immense array of secret ciphers and similar devices, goes on to discuss many problems of what we should now call telepathy or thought-reading—or hocus pocus! The astonished reader is invited to consider means for transmitting thoughts or news through a messenger who knows nothing of the message, for announcing one's will to a medium, even if he be three miles deep in a dungeon, of enabling a man who knows but a single language to read and understand Latin within two hours, and much more to the same effect. The second book is even more grotesque, dealing as it does with the seven planet-spirits which, under God, are alleged to rule the destinies of this world. Each spirit, we are told, is to rule for 354 years and 4 months, and the whole cycle is to be repeated four times over. In Trithemius's day, it appears, Samael, the angel of Mars, held sway for the third time, and under him empires have always fallen or religious systems changed. In his first period came the Flood; in his second the fall of Troy; in his third 'a religious sect will arise, and great will be the destruction of the old religions.' The date announced for the termination of Martian rule was 1525, and when the good Abbot's death was followed by the rise of Luther and the terrible Peasant War of that fatal year—unquestionably the turning point of the German Reformation—the superstitious (and their name was then legion) may well be excused for accepting this as confirmation of Trithemius's magic powers.

But long before his death many wild rumours circulated about him. It was said that he had invoked before Maximilian the spirit of his dead wife Mary of Burgundy, and again that finding himself at an inn where supplies had run short, he had tapped on the window and called out in Latin: 'Adfer,' whereupon some spirit hand passed in to him a broiled pike and a bottle of wine.[14] In a letter addressed to the French mathematician Chapelier[15] he laments that though he has

[13] First published in 1518 (Frankfurt) and in 1516 (Leipzig) respectively.

[14] *Theatrum de Veneficiis* (Frankfurt, 1586), p. 275, cit. Silbernagel, p. 129.

[15] *Epistolae*, xliii. p. 555.

'never written anything which can fairly cause surprise,' he is none the less 'decried as a wizard,' who can 'call demons from the underworld, foretell the future, recall thieves and bind robbers by magic formulæ.' 'Such,' he adds, 'is the estimate of the ignorant masses, who set down to evil arts all that they do not understand.' And yet one is left with the feeling that though he was far from being so credulous as his contemporaries—for he roundly denounces both alchemy and astrology—he was perhaps not altogether indifferent to so marvellous a reputation. This at least is the natural inference to be drawn from a long letter in which he describes his encounter with the redoubtable Dr. Faustus, or in his own words, 'Magister Georgius Sabellicus, Faustus iunior, fountain of the necromancers, astrologer, second magus, chiromancer, pyromancer, in hydra arte secundus.' On his way home from Berlin in 1506 Trithemius arrived in Gelnhausen while Faust was in the town, asserting that if all Plato and Aristotle were destroyed he could restore them with greater elegance, or even that he could work all the miracles of Our Lord. But, adds Trithemius with obvious pride, 'he soon heard I was there, and fled from the inn, and none could persuade him to offer himself to my view.'[16]

It is hardly necessary to point out that up to a considerably later date what we know as physics passed as 'natural magic,' many simple phenomena of Nature were ascribed to the work of evil spirits, spells and potions were hardly less certain than medicine, while heresy and witchcraft, astronomy and astrology, were almost inextricably blended. Trithemius was already Abbot when a Papal Bull solemnly advocated trials for witchcraft (1484); and three years later two learned doctors, who had been appointed judges in all such cases throughout the Rhenish dioceses, caused a profound sensation by their book *Malleus Maleficarum*, which, appearing under the auspices of the theological faculty of Köln, took as its main thesis the view that 'it is heresy to deny the existence of witches.' Following upon his other writings on magic, Trithemius hastily compiled in 1508 a still more amazing

[16] *Epistolae*, xlviii. p. 560. Trithemius's reputation as magician extended to our own country also. In Cartwright's play *The Ordinary* (III, 5) occurs the phrase:

'It would lay a devil
Sooner than all Trithemius' charms.'

See Herford, *Literary Relations of England and Germany*, p. 166.

compilation, entitled *Antipalus Maleficiorum*.[17] Amid this learned farrago of nonsense, which divides witches into four and demons into six carefully defined categories, and discusses elaborately such matters as witchbaths and inçantations, we may at least note that he condemns the belief in omens and sortilege, or again in the demonic power of transformation into animals !

The general attitude towards magic and witchcraft may fairly be regarded as symptomatic of the uncritical standards still accepted in every branch of science and literature : and Trithemius, standing at the very threshold of an entirely new epoch, could not shake off so powerful a tradition. His historical writings reflect the same credulity in the selection of early sources, though on contemporary affairs he shows both caution and sound judgment. To him the value of history cannot be contested—*quaedam memoriae conservatrix, virtutisque exemplar et prudentiae comes* : and the two main canons which he lays down—strict adherence to truth and an attractive style—are altogether unexceptionable.[18] But unfortunately he wrote in an age when history and fable had not been separated ; and the earlier portions of each of his principal historical works—it will suffice to quote four : the Chronicles of Sponheim and Hirschau, the Chronicle of the Dukes of Bavaria and the *Compendium de origine gentis Francorum*[19]—belong entirely to the realm of fancy. Certain it is that two of the chroniclers upon whose authority he laid special stress —Hunibald, the alleged contemporary of Clovis, and Megenfrid, described as a monk of the great Abbey of Fulda in the early eleventh century—contain a mass of puerile fables and are entirely unknown to modern research. Trithemius has, therefore, been accused of their deliberate invention, and even his principal biographer, Silbernagel, accepts this view with regard to Megenfrid. But it does not seem necessary to go

[17] Printed at Ingolstadt in 1555, and afterwards in Busaeus.

[18] Ut ubique veritas inviolata permaneat : ut ipsa narrationis integritas aptissime propriis et concinnis verbis exornata, sua venustate alliciat intuentes.

[19] The first of these appears in the *Opera Historica* (ed. Freher, 1601). Of the *Annales Hirsaugienses*, the first part (reaching to 1307) was published at Basel in 1559, the complete work at St. Gallen in 1690. The ' Dukes of Bavaria ' was printed in Frankfurt in 1544 and 1549, and reprinted in the *Op. Hist.* : while the ' Origin of the Franks ' was written in two versions, of which the first was printed at Mainz in 1515, and both were reproduced by Freher. These works remained unchallenged as works of reference, and were continually quoted, right on till the rise of the modern school of German history.

such lengths as this : Trithemius worked hastily and carelessly, and by his own admission often quotes from memory. His carelessness may be judged by the fact that while quoting Hunibald to prove the advent of the Franks in Germany in B.C. 439, he gives the date as A.D. 380 in two other passages. He was easily gulled, and it need not surprise us that he should have accepted fictitious chroniclers as genuine. Moreover, it is but fair to quote the example of Richer, of whom none save Trithemius had ever heard until the year 1833, when Pertz and Böhmer unearthed him in the library of Bamberg. But for this accident he would doubtless figure to-day as a third invention of Trithemius.

It is clear that Trithemius fell a victim to his desire to provide Maximilian with an authentic Frankish ancestry, on the strength of which he might have transformed the title of ' King of the Romans ' into ' King of the Germans,' and dispensed with all idea of Papal sanction, such as was required for the Imperial Crown. Maximilian, it will be remembered, was keenly interested in the Habsburg pedigree, and indulged in wild dreams of the Byzantine, and even the Papal crown. The part which pure mythology played in Habsburg history is attested by the ' Privilegium Maius ' of the Austrian House, which though resting on such crude forgeries as charters of Caesar and Nero, obtained the sanction of the Electors under Maximilian's father, was incorporated in the public law of the Empire and re-affirmed in 1530, 1599 and even as late as 1729. This amazing fact will help to provide a true perspective for judging Trithemius. Indeed, it is not too much to say that where early times were concerned his German contemporaries were hardly less gullible, as may be seen not merely from the popular Nürnberg Chronicle, but even from such historical pioneers as Celtes, Wimpheling and Aventin. It was only gradually that the critical standards applied to theological, literary, and scientific studies by such men as these, and above all by Reuchlin, Erasmus, and the Reformers, came to affect men's outlook upon earlier epochs of history, and so too upon political theory. Hence the writings of Trithemius enjoyed a high popularity and reputation for wellnigh two centuries after his death, and were continually quoted by later writers as a first-hand and reliable source. This was due to his vast learning, prolific output, and intimacy with the most acute minds of Germany on the eve of the

Reformation, and to his undoubted right to rank as a pioneer of lexicography[20] and of the art of collecting.

It was, however, also due, at least in part, to the sound judgment which he showed in most current questions, and upon which his influence with his contemporaries rested. Reference has already been made to his constant warnings against the evils of his day, and especially the decay of ecclesiastical and monastic life. His outspoken views upon simony, concubinage and priestly and even episcopal ignorance—views shared by Wimpheling, Geiler and other notable men—undoubtedly prove the existence of a party eager for reformation : but their utter lack of success, of which Trithemius's own failure at Sponheim is a striking example, also proves the extent of the evil. His sense of the dangers involved prompted him to praise, as a salutary and 'divine satire,' Sebastian Brant's famous 'Ship of Fools'—the most effective satire directed against the German Church until Ulrich von Hutten entered the lists.

But Trithemius is not merely critical of his own order. He attacks the feudal lords who fleece their peasants, he denounces the rich who hold themselves free to squeeze the poor and 'to do what they like with their own' ; he shares the mediæval dislike of the capitalist as a non-worker. His economic views were of course still more mediæval : he was, for instance, in favour of compulsorily fixed prices, in order to prevent sudden or exaggerated changes. Yet when he discusses usury and the cognate problem of the Jews, he is singularly fair and enlightened, at a time when they were the victims of fierce hostility and persecutions, especially in the cities of his own Rhineland. In 1510 a special pamphlet had been published to demonstrate the Jewish practice of profaning the sacred elements ; and Trithemius's own friend and patron, the Elector Joachim, ordered as many as thirty-eight Jews to be burnt for this offence. Yet Trithemius courageously challenges this accusation, and the kindred legend of 'Ritual Murder,' and he protests against the illegal seizure of Jewish property and the tendency to punish a whole race for the crimes of individuals. What he writes of a leading anti-Semite of that day has a very modern ring : the

[20] See especially his *Catalogus Illustrium Virorum Germaniam exornantium* and his *Catalogus Scriptorum Ecclesiasticorum*, dedicated to Jakob Wimpheling and Bishop Dalberg respectively.

man, we are told, was hated not only by the Jews, but also ' by many persons in the towns, who, though Christians in name, were none the less just as great usurers as the Jews.'[21]

In political questions Trithemius was a good German, according to the standard of his century, and, as a modern writer has pointed out, tended always to praise Germany at the expense of other countries, no less than the monastic orders (despite all his criticism of them) at the expense of the laity.[22] More than one of his writings was avowedly composed *pro laude nationis nostrae*, and as a refutation of those who ' despise our Germany as sterile and lacking in the good arts.' We find him lamenting that ' in our time the German Swiss should have lost so completely their love of fatherland, as to fight their kinsfolk for French money.' He felt keenly the need for a reform of the Empire and its constitution, and sympathised with the efforts of the Elector of Mainz in that direction. His summary of the political situation is worth quoting. ' The Emperor,' he writes, ' has become powerless, and it is the will of the Princes that he should allow them to act as they please unhindered, and rule according to their wish. What they promise him, they do not perform, and such income as he had from the Empire, they have for the most part seized. . . . Men demand of the Emperor everything—peace, law, security : they denounce him because the unrest is always growing : but they do not ask with what means he is to preserve such law and order. Of his undue mildness, which is characteristic of the Austrian blood, many have complained, but of neglectfulness none can justly complain. What Emperor for centuries past has exerted himself more for the Empire than Maximilian ? Who devised better means to restore its strength and unity ? Who suffered more in his own property than he ? Sad it is to see how little all this has borne fruit. . . .'

But Trithemius was no politician, and as he reached middle life seems to have shrunk more and more from the great world. *Oppidum mihi carcer est, solitudo paradisus*, he declares. He lived for ten years in the retirement of his Würzburg cloister, immersed in literary studies, but maintaining contact by letter with most of the foremost scholars of the day ; and he deserves to be remembered as such men have depicted him. ' Trithemius,' wrote Conrad Celtes, ' drinks

[21] *De Judaeis*, 20.

[22] Geiger, *Renaissance und Humanismus*, p. 446.

but little : he scorns the pleasures of the table, lives upon vegetables, eggs and milk, just as our forefathers when as yet there were no spices and condiments in our country, and no doctor with his fever and gout-breeding devices : he is modest in speech, still more so in his life.' ' I saw Trithemius in Sponheim,' Wimpheling tells us, ' amid peasant children, to whom he was expounding the elements of Christian teaching ; I saw him among clergy who had come from different parts to receive instruction from him in the Scriptures and in the Greek language ; I saw him among scholars, whom the repute of his name and library had enticed thither, some from great distances, and who enjoyed unhindered the use of these treasures and of their owner's wise and stimulating conversation.' Trithemius's whole ambition centred in the monastic profession, and to him learning was never an end in itself, but a means to that Christian life which he saw in increasing danger. Though keenly alive to the abuses tolerated and even promoted by Rome, and often expressing himself with surprising freedom on points of theology, it can scarcely be doubted that he would have rejected the drastic solutions of Luther and clung desperately to the old faith. He was wholly unsuited for the combative age upon whose very threshold he died, and it is enough that his contemporaries should have mourned him as one whose spirit, had it been at all general among the dignitaries of the old Church, would have averted disaster, and whose learning and character seemed to justify his epitaph as ' a glory of the German race.'

R. W. Seton-Watson.

THE POLITICAL CONCEPTIONS OF LUTHER

Among the early Protestant reformers Luther stands alone in power and alone in suggestiveness. In spite of the great amount of study that has been devoted in our times to his career and to his writings, the character of his political conceptions has been often misrepresented, while the extent of his influence upon political thought has been exaggerated very grossly. He has been described as a protagonist of despotism and as a forerunner of the 'religion of the State.' I do not think that he was either, except in the sense in which every man foreruns all that follows him. He has been far too much identified with the results of the Reformation in Germany and even in Europe at large. His influence in Germany and in the lands to the north was great, one way and another; in the Netherlands it was considerable, in England slight; it was felt in Italy and Spain, and is traceable in France only for a few years. But everywhere the results of the Reformation were results of an enormous complex of interacting forces, in which Luther could have been, at most, a not inconsiderable factor. Luther has been far too much associated with what is called Lutheranism. Ideally there is little connection between his thought and the systems of government established by the Princes whom he tried to use and who made use of him.

Luther is connected only incidentally with the development in sixteenth-century Europe of absolutist or nationalist theories of the secular state. His thought connects, not with any such theories, but with the development of religious political thought of Protestant type. He connects with Calvin and with the dreams of the 'Anabaptists' and even with Knox: he does not really connect at all with Machiavelli or Bodin or with English nationalism. He represented, incoherently, divergent tendencies in early Protestant thought, which all found clearer and more complete expression else-

where. In this short essay I can attempt no more than a summary presentation, along with some indications of the reasons for and sources of this conclusion. But in order to make the matter clear it is necessary, first of all, to give the briefest possible sketch of the development of specifically Protestant political thought in the sixteenth century.

Already, in the three great treatises of 1520, Luther was asserting that no coercive power belonged rightly to the clergy, that the clergy were mere subjects like other people, and that the whole body of Canon Law was invalid. It was of the essence of the early Protestantism that it swept away altogether the claims of the *sacerdotium*. Of the two sets of magistrates, ecclesiastical and civil, theoretically governing a united Christendom, the former, for the early Protestants, was abolished altogether. At once and of necessity, Christendom became a group, if not of 'states' in the fullest sense, at least of independent, secular, territorial magistracies. The civil magistrate became at once the only guardian of law and order and the only power that could undertake a legal reform of the Church. The *sacerdotium* abolished, the *regnum* stood alone.

But exaggeration lurks concealed in all very general statements. The early Protestants were not, in fact, clear that the civil power, released from Papal control, was not still in some sense subject to the Church. They tended to hold to the notion of a Church having power to distinguish religious truth from error and to declare the truth authoritatively. 'This power,' wrote Luther in 1520, 'the Church certainly has: that she can distinguish the Word of God from the words of men.'[1] The difficulty was to say what or where the Church is, since the Papal Church is not the true Church.

The early 'Reformers,' with the partial exception of Melancthon, hardly concerned themselves at all with the precise nature of governmental authority. But they were very much concerned with the question of their own relation to actual principalities and powers. The question that circumstances forced them to answer concerned their own duty in a perilous position. Roughly, it may be said that they put it as follows. 'We have the truth,' said they; 'we desire to live and to worship according to God's Word and to order the Church and all things else in accordance with the Scriptures.

[1] *Babylonish Captivity.*

But we are regarded as heretics and treated as criminals. What is our duty in relation, not to the Pope, for we owe no duty to the Pope, but to civil magistrates who persecute us and contemn the Word of God ? '

No sort of answer could be given to this question that did not involve some sort of theory of the nature of civil authority. The fact that must here be insisted upon is that they all gave the same answer, even though it had not for all of them quite the same meaning. They all proclaim a normally unqualified duty of obedience to any and every regularly constituted authority. You must obey God, of course, rather than man. But, though you may be bound to refuse to obey commands clean contrary to the law of God, you cannot be justified in seeking to save yourself from punishment by any kind of forcible resistance. In that case prayer and flight are your only permitted resources. For armed rebellion there is no justification possible. Luther, Melancthon, Tyndale, Calvin are here all in a tale. ' He that judgeth the king,' wrote Tyndale, ' judgeth God ; and he that resisteth the king resisteth God. . . . The king is, in this world, without law ; and may at his lust do right or wrong and shall give account but to God only.'[2] Calvin would not quite have said this ; but if he goes less far than Tyndale he is yet more explicit in the same general sense. ' On ne peut résister aux Magistrats sans résister à Dieu.' Even if we are ' affligés pour le Nom de Dieu par un sacrilège et incrédule,' we have no remedy but prayer. The iniquity of Princes is punishment for our iniquities, and in no case is forcible resistance justified. ' Certes c'est une vaine occupation aux hommes privés, lesquels n'ont nulle autorité de ordonner les choses publiques, de disputer quel est le meilleur état de police.'[3] An answer so generally made calls for some general explanation. The Reformers themselves declared that they found their answer in the Bible ; but they could have found there quite another answer, had they wished to do so, as later Protestants did. They were actually following, more or less unconsciously, a line of least resistance.

Almost all the Protestant Reformers assumed from the first the necessity of a formal and visible Church, with an

[2] *The Obedience of a Christian Man* (1528).

[3] The quotations from Calvin are from the *Institute*, and occur both in the version of 1541 and in the definitive edition of 1559–60.

official ministry, an official creed or 'confession,' a defined system of government. They desired, literally, to reform the Church. They seem to have associated religion absolutely with the idea of a visible Church and earthly authority. Since they could not convert the Papists and set up a renovated Church for all Christendom, they desired at least to organise local Churches.

Without the co-operation of the civil authority they could not reasonably hope to do so. There were, of course, dissidents. 'I love any man whom I can help,' wrote Sebastian Franck in 1539, 'and I call him brother whether he be Jew or Samaritan. . . . I cannot belong to any particular sect.' But the mass even of the 'Anabaptists' endeavoured to organise formal and visible Churches.

Everywhere the early Reformers were in a perilous pass, and everywhere they saw in the civil power a possible ally and the only possible instrument for the reformation they desired. To Luther every German prince was a possible ally and so, at first, was the Emperor himself. To Calvin Francis I was a possible ally so late as 1535. These things being so, it seems only natural that the early Protestants should have preached a doctrine of non-resistance to civil authority, unqualified by aught save duty to God. Here also, of course, there were dissidents among them : fanatical zealots who dreamed of reforming all things not by the sword of the magistrate, but by the sword of the elect.

There are, it may be said, three stages in the development of specifically Protestant political thought in the sixteenth century. A general acceptance of this doctrine of non-resistance characterises the first stage. But along with this went the first crude attempts to construct a Protestant theocratic theory of what the state should be. These attempts are associated with what is loosely referred to as Anabaptism ; and they involved wild dreams of theocratic communism. 'Anabaptist' thought is interesting in various ways ; but in none more than this, that it illustrated the tendency of Protestantism in its earliest stage towards a theocratic theory of the state.

But it was Calvin who first formulated such a theory in a coherent and superficially practicable form. The appearance of the Genevan ideal marks the second phase in the evolution. Calvin started from the same point as Pope

Gelasius I[4] and reached the same conclusion as John of Salisbury and Pope Boniface VIII. His conclusions are plainly expressed in the final edition of the 'Institute' and with still greater precision in the constitution of Geneva after 1555. With him civil government is subordinated to the Church as strictly as in Papalist mediæval theory. The Bible is law for all human societies; and for all God only is the real sovereign. This law of God it is for the governing body of the Church, as such, to interpret. The Church has no sword and no prisons; but it has to establish a moral 'discipline' for the whole community. It can declare what is right and what is wrong. Above all, practically, it has the power of excommunication, independently of the civil government; and in a godly community excommunication involves loss of all civil rights. The Church claims nothing of the magistrate that properly belongs to Caesar; but Caesar himself is a member of the Church. He can claim no exemption 'from the common subjection of the children of God'[5]; and must submit himself to ecclesiastical discipline and be liable to excommunication like everyone else. As a modern Genevan writer has put it, in Calvin's ideal state, 'l'église interprète et remontre, l'Etat impose l'obéissance par la force; elle accomplit les fonctions de l'âme, lui celles du corps.'[6] He might have quoted John of Salisbury: 'Inutilis est constitutio principis, si non est ecclesiasticae disciplinae conformis.' It is, so far, precisely the conception of the bull *Unam Sanctam*.

But Calvin separated absolutely the conception of what the state ought to be from the conception of the duty of subject to ruler. God would have all men to recognise Him as their true sovereign and His Word as law: but if men found themselves living under a very different sovereignty, they must make no effort, however impious or idolatrous their ruler, to set up the kingdom of God by force. According to Calvin the 'servants of God' had a right to preach the Word and to worship in their own fashion, and yet had no right forcibly to defend themselves against unjust punishment for so doing. It was a hard saying, and absurd, not logically, but practically; since only those would believe it, for whom successful resistance was impossible. So long as Calvinists could hope to capture and make use of the secular magistrate,

[4] 'Il y a double régime en l'homme,' etc., *Institute*, chap. xiii., ed. 1541.
[5] *Institute*, ed. 1559, bk. iv. 11. [6] E. Choisy, *La Théocratie à Genève*.

or so long as they had not with them sufficient force for effective rebellion, they adhered to the master's doctrine. But their acceptance of such a view could not outlast such conditions.

The third phase was reached just before 1560. By that time the position of Protestantism had become very different from what it had been in 1540. 'Calvinism,' in particular, had fairly established itself in the Swiss region and was at least moderately strong in southern Germany. For twenty years it had been spreading and organising itself locally in southern France, and was now allying itself with provincial particularism and with the ambitions and jealousies of great nobles. It was gathering strength in Scotland and forming alliance with the anti-French feeling aroused by the presence of French troops and agents. Alike in France and in Scotland it was becoming an organised political party, strong enough to assert itself by armed rebellion. As soon as this point was reached, Calvin's doctrine of the wickedness of rebellion was repudiated alike in France and in Scotland. In France, indeed, the repudiation of Calvin's political theory was more complete than in Scotland ; for the French Calvinists, for good reasons, never really accepted the political ideal of Geneva. Later Huguenot theory is not in any sense derived from Calvin. But in Scotland, Knox and his followers accept the Genevan ideal and argue from it that it is a positive duty to rebel against and depose idolatrous and impious Princes. From first to last, in fact, always and everywhere, the direction if not the form of Protestant political theory was determined by circumstance. In England, somewhat later, the difference between Cartwright and Knox is the difference between a Calvinism that feels itself strong and a Calvinism that knows itself powerless. But I need go no further. The question that now has to be asked is : what is Luther's relation to this process of development ?

Luther was not a systematic thinker like Calvin. He had too much passion and far too little patience. He was as naturally an improviser as the great Frenchman was a systematiser. 'I have the thing, but not the word,' he said ; and was not quite just to himself in saying so. For at times he found great words. But passion and impatience master him : he exaggerates his phrase, says more than he means, and so slips easily into self-contradiction. It is not easy to

find a way among his clashing utterances. He felt more than he considered ; and to me it seems that he knew better what he did not believe than what he believed. But he was a great and an honest man. If we look only at his action in affairs, we may doubt his honesty ; but no one, I think, will do so who reads his writings. Very rarely, if ever, is dishonesty so inconsistent as was Luther.

It has, of course, many times been noted that Luther was profoundly influenced by the writings of the later mediæval mystics : by Susa and Ruysbroeck and Gerald de Groete, above all by Tauler and the ' Theologia Germanica.' Radically impossible as it is to separate Luther's religion from his politics, this is a fact of importance. ' Neither in Latin nor in German,' he wrote of Tauler in 1516,[7] ' have I ever found sounder or more wholesome doctrine, nor any that so fully accords with the Gospel.' He found time to prepare two editions of the ' Theologia Germanica ' and declared, in a preface, that he had learned from that work ' more of what God and Christ and man and all things are ' than from any other writings save those of St. Augustine and the Bible. It is just the element in his thought derived from, or at one with, that of the mystics, that separates Luther most completely alike from Melancthon and from Calvin. It was especially in the earlier years that this mysticism of his was apparent : later the tares of the world partially choked the wheat. But they never choked it altogether. I think it may be said that all that is really distinctive in the political thought of Luther was or might have been derived from the mystics.

It has often been said or implied that a great change took place in Luther's views after the Peasants' Revolt. It is true that after that disastrous event he attached himself more and more definitely to the German Princes. There is in his later writings more stress on the rights of rulers and less on the liberty of a Christian man, more stress on the need of order and less on the universal priesthood. This change of stress, it seemed to him, the times required ; but it is a change of stress rather than of view. Before 1525 he was preaching the duty of submission to constituted secular authority as clearly and emphatically as later.

Perhaps the most important and radical change that took place in the views of Luther consisted in the fact that he to

[7] Letter to Spalatin.

some extent lost hold of the conception of faith with which he had started on his career as a reformer. By 'faith' he seems, at first, to have meant an intimate sense of the presence and love of God, bringing assurance of redemption and safety. It was a conception he could have found in Tauler. 'In experience,' he wrote in 1521, 'the Holy Ghost teaches us in his own school, outside of which nothing of value can be learned.'[8] It is difficult to say what in those early years he understood by the 'Word of God'; but he does not seem to identify it with the text of the Bible. Later he slips into using the word 'faith' to signify mere conviction of the validity of dogma, while the actual text of the Scriptures tends to become for him the only 'Word' of God. This change, never quite definite or clear to himself, seems certainly to be connected with the change in his attitude on the great question of toleration.

But whatever the exact extent of the change in Luther's views, it is important to notice that Luther's actual and personal influence waned even as his views altered. It was during the critical and formative years from 1520 to about 1530, that his influence was greatest. Later the real direction of the Reformation in northern Germany passed into the hands of the Princes, while, in the south, Luther's influence faded. It seems to me that before he died Luther had, except for northern Germany, become little more than a great name. On the one side were state-ridden churches, on the other the ideals of Geneva.

On the question of the relation of subject to ruler Luther gave substantially the answer that was given by all the early Protestant reformers. What really distinguishes him is his distrust of all governments, his dislike of formal law, his insistence on the duty of passive resistance and, above all, the profound pacifism in which he was at one with the mystics.

His language, however, concerning the normal duty of subjects, though not so emphatic as Tyndale's or so explicit as Calvin's, is clear enough. His view was extraordinarily simple. Luther was, in his way, a patriotic German. He would have liked to see the formation of a German national Church, freed from the Pope and united under the Emperor and the Bible. But from 1521 onwards the attitude of Charles V and of Ferdinand made it clear that no such

[8] *Preface to the Magnificat.*

construction was possible. Thenceforward Luther can see in Germany only a chaos of conflicting claims and jurisdictions. In theory he greatly simplified this chaos by eliminating the special claims of Pope, bishop, monastery and clergy generally. There remained a multitude of 'magistrates,' higher and lower, in more or less indefinite relations to each other and to the Emperor. Concerning the relations of German magistrates one to another, Luther speaks always with great caution or refuses to speak at all. It may perhaps be held, he told the Elector of Saxony in 1530, that Princes and magistrates have a legal right in certain cases to resist the Emperor ; but what is quite certain, from the Scriptures, is that no true Christian can set himself to oppose his ruler by force, but should rather suffer all manner of injustice. The Scriptures speak quite plainly. God has commanded obedience to magistrates in all things lawful by the law of God ; and has forbidden active resistance in any case and for any cause. The inferior magistrate must obey his superior : the duty of the common man is simply to obey the magistrate. 'God Almighty has made our Princes mad,' but he has ordered us to obey them. There is no doubt about it, and whoso resisteth shall receive damnation.

It is not a question of how 'magistrates' came to be where they are. Luther has no theory of state right at all. He insists, simply, that God has commanded obedience. Just because this is so, and for no other reason, we can and should take our magistrates, good or bad, as set over us by God. Luther had small trust in princes, but great trust in the Scriptures. 'I will hold always,' he declared, as early as 1520, 'with him, however unjust he be, who suffers rebellion, and against him who rebels, however justly.'[9] To plead 'rights' in face of the plain command of God is not only logically absurd, it is impious. 'Leiden, leiden, Kreuz, Kreuz, ist der Christen Recht, das und kein anderes.' That cry came from the depths of his being.

The command of God is all-sufficient and must be obeyed, reason or no reason. But Luther saw, also, good reason for the command. He had a vivid sense that the whole social order, and so everyone's security, would be endangered by any assertion of a right forcibly to resist constituted authority. If it should once be admitted, he told the Elector of Saxony,[10]

[9] *An den Christlichen Adel.* [10] Letter to the Elector, March 6, 1530.

that men have a right to resist their ruler, whenever that ruler do wrong, 'there would remain neither authority nor obedience in all the world.' 'Herr Omnes,' moreover, cannot truly distinguish between wrong and right. But Luther's deepest feeling on this matter is that force and violence are in no case a remedy against oppression. He expressed himself in this sense again and again. Rebellion is not only a breach of the express Divine law: it is also foolish and worse than useless. The mass of men are in no real sense Christians: and to rebel is merely to give increased opportunity to the wicked. Nothing so pleases the devil as civil commotion and war. No good can come of it; and in the turmoil it is the innocent who suffer. The Word of God and His truth will triumph without aid from our puny force. God is for ever on the side of justice. If you have faith, you will rest and be content in that knowledge, obey God's Word and know surely that to use violence is but to add evil to evil.

All this is declared by Luther more or less clearly and emphatically. But to represent him as having taught an unmitigated doctrine of non-resistance, such as would logically lead to the establishment of complete absolutism in the state, is to misrepresent him grossly.

Up to 1525, at least, he showed himself quite as anxious to insist on the duty of passive, as on the wickedness and futility of active resistance. No one, I think, in the sixteenth century, except Knox and the Leaguers of France, gave more importance than did Luther to the undenied principle that one must obey God rather than man. In the treatise 'Von Weltlicher Uberkeyt,' published at Wittenberg in 1523, which contains the most complete exposition of his political ideas that he ever made, he is occupied largely in asserting limitations to all rightful authority. The book has been called a 'livre de circonstance,' and it is one; and so is every book Luther ever wrote. It is none the less sincere for that.

He asserts again and again, in emphatic phrases, that the civil magistrate has no rightful authority in relation to Christian conscience and belief. It is for him to reform the Church: it is not for him to say what men shall believe or how they shall worship. 'With no right,' he had declared in 1520,[11] 'can any kind of law be imposed upon Christians, either by men or angels, save in so far as they will.' The

[11] *Babylonish Captivity.*

reference here was, of course, to the Christian conscience only, not to law concerning merely mundane matters. 'The temporal regiment has laws that reach no further than over body and goods and what things of earth there are besides. For over souls neither can nor will God allow that anyone rule but Himself alone.'[12]

Princes, he declared, 'are commonly the greatest fools or the worst scoundrels upon earth.' Though wickedness should not be withstood by force, yet 'one should not serve it, nor follow it, nor obey it with one foot or with one finger.' If your Prince command you to believe thus or thus, or bid you put away your Bibles, 'you shall answer that it becometh not Lucifer to sit next to God. Dear Lord (you shall say), I owe you obedience in body and goods: command me in the measure of your authority upon earth and I will obey. But if you would take away my belief and my books, then will I not obey. . . . And if, on that account, he take away your goods and punish your disobedience, be happy and thank God that you are worthy to suffer for his Word's sake. Let him rage, the fool, he will find his judge!'[13]

It may be said that all that is involved here is the assertion of a principle of liberty in religion which, later, Luther himself abandoned.[14] Any such principle, conceived as absolute, involves limitation of sovereignty. But it is not true that this is all that is involved. The Christian conscience is not concerned only with belief and with forms of worship. It is the ultimate judge of the validity of law, for in it the law of God is apprehended.

For Luther the limitations of rightful authority arose from the nature of law as he conceived it. We are apt to be misled when we find someone in the sixteenth century asserting that there is no justification for any kind of forcible resistance to constituted authority. That assertion meant to Luther far less than it would mean to us. We have come to associate the idea of political authority with that of law-making power. If there may be no forcible resistance to a sovereign legislator, that sovereign becomes as 'absolute' as in the nature of things he can be. But if the sovereign be bound by a law he cannot unmake, the case is very different.

In Luther's view human law and government are only needed at all, because men are not Christians. True

[12] *Von Weltlicher Uberkeyt.* [13] *Ibid.* [14] See *infra.*

Christians, he declared, need no temporal power to rule them : it is the temporal power that needs them.[15] 'Magistrates' exist for the punishment of the wicked and protection of the good. The function of the magistrate is the administration and enforcement of a law that, in the main, exists unalterably. Customary or Imperial law, all merely man-made law, is valid and binding only so far as it conforms to the Word of God in the Scriptures and to that 'naturlich recht' which is the reflection of Divine law in the heart and conscience of men. The conception is, of course, mediæval ; and it is the groundwork of all Luther's thought on government. Absolute obedience is due to the magistrate in the exercise of his proper function : forcible resistance is forbidden in all cases. But refusal to obey may be justified, at least, by any contravention of the law of God, which is the law of nature.

Luther admits, indeed, the existence of law-making power in a secondary sense. Law inheres essentially in the Scriptures and in the conscience of man ; but the precepts and principles alike of Scriptural and natural law require adjustment to a complex of circumstance. He recognised the necessity, therefore, of a *lex positiva*. All the same he was impatient and suspicious of all merely human law ; and almost as hateful to him as the Canon Law was the Corpus Juris Civilis. All lawsuits, he declared, should be determined by natural justice. For the right judging of disputes among men only a good conscience and love and reason are necessary. If a judge have love and wisdom, law books are worse than useless to him. 'But without love and natural law (*Naturrecht*) you will never fall in agreement with the will of God, though you had devoured the Jurists and all their books.'[16] It is vastly better to appoint good judges than to make laws, however good.[17]

It is only, in fact, in a very limited sense that Luther seems to have recognised what we call the state. His 'theory' is really simply a theory of the duty of the individual in relation to constituted civil authority. Of a sovereign law-making power he seems to have had no conception. The state for him is constituted by God's command to obey magistrates. The duty of the subject is not really a duty owed to the magistrate : it is a duty to God. Since the jurisdiction of these

[15] *Von Weltlicher Uberkeyt.* [16] *Ibid.* [17] *Babylonish Captivity.*

'magistrates' is territorial, the territorial state is created. But he seems to conceive the state only as a group or system of governing magistrates. The Prince is generally a fool or a rascal, but obedience is due to him by command of God and for the sake of order. His authority is limited both by the text of the Scriptures and by natural law. But he must not be forcibly resisted. Violence is no remedy for anything, and rebellion worse than futile. Of man-made law the less we have the better. We all know what is right, and where we cannot see, the Scriptures light the way. 'Love needs no law,' and if we were all Christians we should need neither law nor Prince. Whatever inferences might be drawn from Luther's later acquiescences, this, I think, is a fairly accurate summary of his political teaching at the time when his influence was greatest.

It has been said that 'had there been no Luther there could never have been a Louis XIV.' The very idea of unlimited sovereign right is absent from Luther's writings, and his religion was most certainly not a 'religion of the State.' Nor is it possible by any logical process to derive either of these conceptions from his writings. It might be argued that to deny a right of forcible resistance in every case, is to make all theoretic limitations to the power of the Prince practically valueless. Ideally this is not the case ; nor is it so even actually. Passive resistance, if resorted to by any large proportion of its subjects, would leave any government powerless. In 1530 Luther wrote to the Elector of Saxony that if the Emperor should command the Princes to persecute their subjects 'because of the Gospel,' the Princes should leave land and people unprotected and the Emperor unhindered and should say that if the Emperor would plague their subjects he could do it himself, but that they would have no hand in it.[18] The Emperor was to be left to do what, in fact, he would have had no means of doing. Even though the ruler may break law with impunity so long as he has the means to do so, it yet remains true that the power of a government is unlimited only so far as it is recognised as being so. The epigram concerning Louis XIV seems completely unintelligible unless we substitute the word 'Reformation' for the word 'Luther.' Had there been no Reformation, the Europe of the early sixteenth century would have been so

[18] Letter of March 6.

unlike what it was, that to talk of what in that case would have been seems merely absurd. The development that took place in France was completely independent of Luther. In Luther's lifetime French lawyers were already expounding a theory of the French state far more absolutist than any theory of Luther's involved. Had it been said that if there had been no law school in the University of Toulouse there could have been no Louis XIV it would not, of course, have been true ; but it would at least have been intelligible.

Our summary, however, is so far very incomplete, since Luther's attitude on the great question of toleration has not yet been dealt with. Of all the questions debated in the sixteenth century, none was so vitally important, both at the moment and for the future, as the question of the duties or the rights of civil authority in relation to manifestations of religious opinion. To the main question, as a practical one, there were three possible answers ; and they were all given. It was held that the civil magistrate was under a positive obligation to maintain true religion by force and to use the sword to exterminate wolves. This was the view taken by Calvin and his followers and by a large section of the Catholics, including, generally, the Pope. But, secondly, it was held that though the secular sovereign had a right to suppress heresy by force, he was under no obligation to do so. It lay with him to persecute or not, as seemed good to him. This was, of course, the view which governments tended to take. Those who held it might advocate ' persecution ' as a general rule, or believe that, as a rule, a policy of toleration was most expedient. Lastly, it was maintained, not by isolated thinkers, but by considerable groups of people, that the sovereign had no right to ' persecute ' at all, but was bound to allow his subjects to believe what they could and live and worship accordingly, just so far as was consistent with the maintenance of social order. It is to be noted that only the second of these three views is really consistent with a doctrine of absolute secular sovereignty.

We have here to deal only with Luther. His answer to the great question was different at different times, and even within the same year. His deepest instincts and convictions impelled him in one direction ; his increasing sense of danger from the ' Anabaptists ' and his increasing dependence on the Princes dragged him in another. Down to

1525 he stood, though not quite consistently, for freedom: between 1525 and 1531 he wavers distractedly between two opinions; after 1531 he has gone over, almost though never quite completely, to the view that the suppression by force of false doctrine and false worship is a duty for the magistrate.

'Faith must be voluntary,' he declared in 1522; 'I will preach but I will compel no one.' The use of force to propagate the gospel delights the devil.[19] 'By the Word the world was conquered,' he had written to Spalatin in 1521, 'by the Word the Church was preserved, by the Word she will be restored.' But the *locus classicus* is the passage in 'Von Weltlicher Uberkeyt' that was translated, or rather paraphrased, by Castellion in the 'De Haereticis an sint persequendi' in 1554. 'The thoughts and meanings of the soul,' he there declares, 'can be clear to none but God. Therefore is it futile and impossible to command or to force any man to believe thus or thus. . . . Thus is it each man's own business how he believe, and he must see to it for himself that he believe aright. For as little as another man can go to heaven or to hell for me and as little as he can shut or open to me heaven or hell, so little can he drive me to belief or to disbelief. . . . Heresy can never be restrained by force. God's Word must fight with it, and if that avail not, then will it remain unchecked by temporal powers though they fill the world with blood. Heresy is a spiritual thing, hewn with no iron, burned with no fire, drowned with no water. It is God's Word only that avails. There is no greater fortifier of faith and of heresy than to fight against it without the Word of God and by mere force. For we cannot go about even worldly business by force, unless injustice has first been conquered by justice. . . . Though we should burn every Jew and heretic by force, yet neither is there nor will there be one conquered or converted thereby.'

Luther's plea for toleration is totally unlike that of Castellion or Acontius, and far less radical. What strikes him is not the injustice of religious persecution, but its futility. Nevertheless the words quoted, taken by themselves, might be held to justify the assertion that Protestantism in the sixteenth century stood for a right of private judgment in religion. I have never been able to discover what this word 'Protestantism' exactly means; but at all events Luther, in

[19] *Eight Sermons.*

these earlier years, practically did stand for such a principle. In his 'Circular to the Princes of Saxony' (July 1524) he declared that even Anabaptists should be suffered to preach freely and against whom they would. 'Let the spirits fall upon one another and fight it out.' [20] Even so late as 1531, in the preface to his 'Shorter Catechism,' he declared that 'we neither can nor should force anyone into the faith.'

It was, perhaps, because his antipathy to persecution was based on a sense of its futility rather than on a sense of its wickedness or on any reasoned conviction, that his view of the question was so unstable and altered so quickly under circumstantial pressures. In the very year of the publication of 'Von Weltlicher Uberkeyt' he declared that celebration of Mass is public blasphemy and ought to be suppressed by public authority. The gross inconsistency of this was sharply pointed out to him by the Elector of Saxony, who told him to practise what he preached.[21] In 1525 he was arguing that the magistrates must protect people against the devilish teaching of Anabaptists and use the sword to do so : in flat contradiction of his Circular of the previous year. In 1526 he tells the Saxon Elector that uniformity in religion is necessary to peace and order. By 1533 he seems to have accepted completely the view that it is the duty of the magistrate to use the sword to the full extent of his power to destroy false doctrine and worship. And yet, it seems, he was never quite convinced. In his very last sermon, preached less than a fortnight before his death, he declares, once more, that it is futile to endeavour to destroy heresy by force. The tares only increase for pulling, and even Catholics and Anabaptists must be left to grow amongst the wheat till the last harvest. His acquiescence in the measures taken by Princes and by cities against Catholics and Anabaptists was, probably, more influential than any of his words. But whatever view be taken of his inconsistencies, it should be noted that at least he never claimed for governments a right to persecute or to refrain at their own discretion and for reasons of expediency.

Nothing is more difficult to trace, nothing harder to estimate, than the influence of any one man on the thought of his time. Yet few things are written of more glibly. We are apt to forget how subtle and complex a thing is the influence of one man on another, and how the same act, the same word,

[20] *Briefwechsel*, iv. p. 372.

[21] Burckhardt, *Briefwechsel*, p. 76.

may move two men in different directions. Is it not true that, in general, a man takes from a book what, consciously or unconsciously, he was looking for ; that he accepts its teaching only so far as this clarifies for him his own thought and expresses his own secret desire ? A writer may, of course, do much to bring order into chaos and give the formless form. He may confirm a wavering faith. He may show a man clearly what he wanted to see and could not see unaided. But all such influence is secondary. It will add force to a current but not deflect its course. It defines, but it creates nothing. It may provide a channel for scattered waters to flow in, which else would follow countless, invisible ways. But the direction of the flow is not altered. It is not books, or words, but circumstance and desire that, in the main, mould the thoughts of men. It is so even with the great teacher himself : unless, indeed, he be so detached and isolated as to be almost without influence.

In the case of Luther, his courageous stand against principalities and powers from 1517 to 1521 was potent as an example and as a stimulant to action all over western Europe. It was the interest his conduct aroused and the prestige it brought him, that gave their immense popularity to the three great treatises of 1520. It was in that year and in the years that immediately followed that his personal influence was greatest. But it is impossible to attribute either to his action or to his writings any quite definite results in the mere world of thought. Yet it was, certainly, of importance that such a man should have preached, with a constant and increasing emphasis, the duty of obedience to the civil magistrate and the wrongfulness, in all cases, of armed resistance or rebellion. Luther's utterances on matters political were so scattered and in some ways so incoherent, that few can have formed any definite notion of his political doctrine as a whole. But what the common man needs and seeks is merely a practical conclusion and rule of conduct. In Germany, at least, Luther must have done much to strengthen that tendency to regard rebellion against constituted authority as rebellion against God which, strong since the days of the Latin Fathers, was, in the sixteenth century, to become stronger than ever it had been. But facts do not justify us in saying more than this. Everywhere, in the first half of the sixteenth century, the Protestants were preaching the same doctrine. Even the

mass of the so-called Anabaptists taught submission to civil authority. Nor is there anything specifically Protestant about this view. The same conclusion and practical rule was being simultaneously taught, though from a very different point of view, in the law schools of France and Italy. It was taught by Bishop Gardiner as well as by Tyndale, and asserted as clearly by L'Hôpital as by Calvin.

Not only so : it is clear that if Luther's influence drew many in the direction of a submissive dependence upon civil authority, he must have moved many others in a direction very different. His insistence on the duty of obedience to God rather than to man, his insistence on Christian liberty and natural law, above all, perhaps, his declaration that a truly Christian community would need neither law nor magistrate, must have turned many towards what was roughly called Anabaptism. Those who accused Luther of inciting to revolt and violent revolution were not so very far wrong. 'I believe,' he wrote in 1520,[22] 'that there is on earth, wide as the world, but one holy, common, Christian Church, which is naught else than the community of the saints. . . . I believe that in this community or Christendom (*Christenheit*) all things are in common and each man's goods are the other's and nothing is simply a man's own.' The words are not easy to interpret, but the suggestion of a Christian communism is there. Luther's thought was, at times, far nearer to the thought of the Anabaptists than he himself was aware.

If Luther can be said to have had any ideal of the state, it was a theocratic ideal ; but it would, perhaps, be truer to say that he had none at all. Vaguely there floated before his mind the vision of a state ruled by the Word of God and by reason and love and natural justice. Actually he acquiesced in the construction of such states and churches as the 'Lutheran' Princes chose to build. For his profoundest feeling—and in this he was at one with his early teachers, the mystics—was that in the long run only God and God's Word counted or mattered. He was a forerunner not of Louis XIV but of Calvin and of Knox and of 'Anabaptist' prophets. Calvin's ideal state was a development of the theocracy vaguely suggested by Luther. Knox expressed that which in him had revolted against the godlessness of secular rulers. The Anabaptists voiced his recurrent longings after a perfectly

[22] *Works* (Erlangen ed.), xxii. p. 20.

Christian community. We may say that Luther sowed the seed of all these different things ; if we remember that the things did not actually grow or came only very partially from the seed he sowed. But, except accidentally, he has no real connection with any theory of absolute secular sovereignty. Such a theory, had he ever encountered it, would have been to him altogether abhorrent.

J. W. Allen.

BODIN AND THE GENESIS OF THE DOCTRINE OF SOVEREIGNTY

I

Jean Bodin—French lawyer, economist, philosopher, and publicist—lived throughout the high day of what, in respect of English history, is called the Tudor period. He was born in the year which saw the fall and death of Wolsey—the year which Froude selected as the starting-point of his detailed survey of the era. He died of the plague at the age of sixty-six, eight years after the defeat of the Spanish Armada, at the time when Essex and Raleigh, in the harbour of Cadiz, were completing the work of Drake by finally destroying the Spanish naval power. His career began when the star of Luther was in the ascendant over the Continent of Europe ; it closed beneath the fiery constellation of the Jesuits. The two generations, indeed, included within the limits 1530 to 1596 were precisely the periods of the Reformation and the Counter-Reformation ; and nowhere did the contending furies of the rival ecclesiastical sects rage with more diabolical ferocity than round Bodin, and in the society in which his lot was cast. France was, in truth, the key to the sacerdotal position. Protestantism, with its appeal to private judgment and personal freedom, had made good its hold over the Teutonic nations. Catholicism, with its insistence on authority, universality, and tradition, had confirmed its possession of the Latin peoples among whom it had been developed, and whose genius it expressed. France was the doubtful field whereon a Teutonic nobility, long accustomed to defy the Crown and oppress the people, contended for the new faith against a Latinised priesthood and proletariat devoted to the old. If France could be captured for Calvinism, then indeed might the extinction of Catholicism from the world be regarded as a feasible design. Hence the sanguinary intensity of the so-called French Wars of Religion (1562–1598).

Bodin stood aloof from the theological hurly-burly. Not that he was devoid of interest in religion. On the contrary, he was profoundly fascinated by its contemplation, as was his disciple, Thomas Hobbes, in the sequent century. His attitude towards it was, indeed, much the same as that of Hobbes. He held it to be useful to the State : it helped to keep an unruly populace in check.[1] Its determination and institution should be a matter for the civil authority. What sort of religion should be established was comparatively unimportant : any sort was preferable to atheism. Only, when once set up it should be accepted and observed by the whole community without further discussion ; for there is nothing so sure as may not be questioned in debate, and nothing so prejudicial to the public peace as religious controversy.[2] This attitude of statesmanly superiority to sectarian wrangling was very far removed from the contemptuous indifference of the self-centred Montaigne, who was Bodin's almost exact contemporary (1533–1592). It was the general attitude of the *Politiques* to whom Bodin was attached—the attitude of L'Hôpital, of Pasquier, of De Thou, of Henry of Navarre. It recalls the attitude of the sceptical Senators and Caesars of antique Rome towards the cults of the Olympian Gods whom they worshipped before the eyes of the vulgar, but in their hearts contemned.

It would not, however, be right to say that Bodin either despised or rejected the fundamentals of the popular religion of his day. He probably believed in God, whom with apparent conviction he proclaimed to be the source of the authority of sovereigns, and the giver of a law superior in sanction to any of human origin. He certainly believed in many devils, concerning whom he wrote an amazing and horrible book entitled ' Démonomanie des Sorciers ' (1580), in which he advocated, in obvious panic, the extremest measures of punishment for detected witches and wizards—measures which he himself, as King's attorney, did not hesitate to inflict. He further seems to have been persuaded that, after the manner of Socrates of yore, he was

[1] ' Est etiam in religionis metu magna vis ad plebem coercendam.' *De Republica*, bk. iv. chap. 7.

[2] ' At cum semel constituta ac omnium consensu probata religio fuerit, ne posthac in disputationem deducatur, cavendum est ; ut omnes seditionum viae, omnes aditus intercludantur, et praesidia pacis muniantur,' etc., etc.—a most remarkable paragraph. *De Republica*, iv. 7. Compare Hobbes, *Leviathan*, chapters 12 and 39.

himself, from his thirty-seventh year onward, accompanied always and everywhere by a friendly and upright spirit, who re-enforced his conscience by touching him on the left ear when he contemplated good, and on the right ear when (as was more frequent) he meditated evil. His detailed opinions respecting the controverted theological problems of his day it is not easy to discover, and the discovery is retarded rather than facilitated by the study of a curious work dealing with these very problems, entitled 'Heptaplomeres,' which he left behind him in manuscript.[3] This work is in the form of a frank and free discussion among seven men representing seven different types of religious belief, viz. three Christian (Catholic, Lutheran, Zwinglian[4]); two anti-Christian (Jew and Moslem); two rationalistic (one Epicurean or atheistic, the other Neo-Platonic or theistic). They traverse, in their argument, which is quite passionless, the whole field of faith. It has been much debated which of the seven represents Bodin's own views. Certainly none of the Christian; they all make a poor display, especially the Catholic, who, baffled at every point, has no appeal save to authority. On the whole, the Jew (Salomon) and the Neo-Platonist (Toralba)—both representative of a lofty theism—come off best. It is difficult to say to which of the two Bodin is the more sympathetic. Huet, in his 'Demonstratio Evangelica' (1680), says that the Jew expresses Bodin's own opinions. M. Baudrillart[5] is inclined to agree with him: in all his work, he says, 'l'esprit juif éclate chez Bodin,' and he thinks that internal evidence supports the otherwise isolated assertion of M. Chapellain, that on his mother's side Bodin was descended from a family of Spanish Jews, driven from the Peninsula in the persecution of 1492.[6] Diecman, however, in his 'Schediasma Inaugurale de Naturalismo' (1684), identifies Bodin with Toralba, the Neo-Platonic philosopher of the 'Heptaplomeres,' and makes him a rationalist pure and simple.[7]

Bodin remains, indeed, a mystery to his present-day

[3] Widely circulated in manuscript, but first printed, and then only partially, in 1841. An enlarged but still incomplete edition appeared in 1857.

[4] The absence of a Calvinist is exceedingly strange. Perhaps the implication is that he was the only one who could not be persuaded to take part in a friendly debate.

[5] Baudrillart, *Bodin et son Temps*, p. 207; *cf.* also Hallam, *Literary History*, ii. p. 149.

[6] *Cf.* Franck, *Réformateurs et Publicistes*, i. p. 397: 'Cette tradition—fort accréditée parmi les contemporains—que le critique moderne a essayé sans raison de révoquer en doute, me paraît digne d'une entière confiance.'

[7] Franck concurs: see *Réformateurs et Publicistes*, i. p. 491.

successors, as he was a mystery to his contemporaries. The men of ardent faith did not, and do not, know what to make of him. Mercier said he was a Catholic ; De Thou a Calvinist ; Patin a Jew. Bayle described his religion as ' amphibious.' Gillot, who had known him, writing to Scaliger in 1607, denied that he had any religion at all, adding, ' Il mourut comme un chien, *sine ullo sensu pietatis*, n'étant ni juif, ni chrétien, ni turc.' He escaped the massacre of St. Bartholomew in 1572 only by virtue of his agility and an open window ; in 1590 he was attacked as a sorcerer, his house was ransacked and his books destroyed.[8] But, whatever may have been his own private opinions, he was, without any doubt at all, a strong believer in the policy of toleration, a pioneer advocate of the separation of religion from politics, a convinced supporter of the view that good citizenship is compatible with many kinds of churchmanship. The principle of toleration is the conclusion of the ' Heptaplomeres ' : the seven disputants amiably agree to differ, and to live at peace with one another. They further unite in expressing the hope that a similar spirit of complacence may become general throughout the world. The book closes with the great words attributed to Theodoric, the Ostrogoth : ' Religionem imperare non possumus, quia nemo cogitur ut credat invitus.' [9] Bodin agreed with Queen Elizabeth (whose court he visited, in company with the Duke of Alençon-Anjou, in 1581) that *external* conformity to a State-determined Church was desirable in the interest of national unity, and for the more effectual control of the insensate mob. But—again like Elizabeth—he did not see why this external conformity to a political necessity should not be regarded as entirely compatible with the largest liberty of belief—provided only that this liberty did not seek expression in dissentient and disruptive language. He was prepared—as was Hobbes in the seventeenth century—to go to any sort of Church established by the State ; only he implored the State to regard his conformity as a sufficient service, and not to make any inquisition into his reasons for going, or his thoughts when he got there. The comfort and support which Hobbes found

[8] *Cf.* Dunning, *History of Political Theories*, ii. p. 82 : ' He was assailed at different times as a Catholic, a Calvinist, a Jew, a Mahommedan, an Atheist."

[9] Bodin again quotes this passage in his *De Republica* (bk. iv. chap. 7), adding in comment : ' Quae quidem ratio Cassiodori omnium efficacissima mihi visa est, ad supplicia quae religionis specie irrogantur tollenda.'

in the sanctified example of Naaman in the house of Rimmon, Bodin found in the beatific sentiments of Theodoric in the works of Cassiodorus.

It is clear that Bodin—whether from the standpoint of Jew, Turk, Infidel, Christian, or Neo-Platonist—regarded the matters at issue between Catholic and Huguenot as entirely trivial and unimportant. In this he was alien from his time. A few choice spirits, it is true, had spiritual insight enough to discern more of harmony than of discord between the 'Institutes' of Calvin and the Decrees of the Council of Trent. Among these most eminent was the Great Chancellor Michael de L'Hôpital, the true forerunner of the *Politiques*, who appealed to the States-General in the notable words: 'Let us do away with these diabolical terms, Lutherans, Huguenots, and Papists—the names of parties, factions, and seditions; let us cling to the title of Christians!' And again, with a still larger tolerance, 'Many may be citizens, who are not even Christians.' But L'Hôpital stood almost alone in an age which could not conceive of Church and State as separate institutions. There were more who, like Henry of Navarre and his associates, still clung in theory to the mediæval ideal of the single community—the *Respublica Christiana*, Church on its spiritual side, State on its secular side—but who, realising that it was no longer an attainable ideal, were unwilling to sacrifice the realised unity of the State in the interests of the doubtful rehabilitation of the Church. They had a less lofty aim than L'Hôpital, but their practical policy was the same. They were tolerant, not from conviction or from principle, but from exhaustion and expediency. Even they, however, although more numerous than the little company of L'Hôpital's following, were an inconsiderable minority of the nation. The bulk of the nation, whether Catholic or Calvinist, consisted of monopolists, who placed ecclesiastical conformity and theological unity above all other considerations, and were firmly resolved, when once they were in power, to allow no divagation from their narrow way. 'The king will have but one religion in France,' said Catherine de Medici to the Huguenot Vicomte de Turenne. 'We are of the same mind, Madam,' replied Turenne, who came from Béarn, where Catholicism had been entirely stamped out; 'but it must be our religion.'

Bodin's theory of toleration lay about midway between the

lofty principle of L'Hôpital and the low expediency of the Bourbon. He agreed with L'Hôpital as to the impropriety of attempting to coerce opinion and force the minds of men into a mould, but he did so not because he shared L'Hôpital's hope of ultimate reconciliation and reunion, but because he recognised the fact that the schism of Christendom was permanent and irremediable. He wanted to make the best of a bad job. In this he had affinity with Henry of Navarre and those who—two years after Bodin's death—joined him in formulating and promulgating the Edict of Nantes. The weakness of that famous settlement was that it was based on no principle at all. It was admittedly a mere concession to necessity. Hence when the necessity ceased to exist, it was easy and natural for a Richelieu to modify it, and for a Louis XIV to abrogate it. The necessity, however, which, during the dark days of the Wars of Religion, appealed to both Henry of Navarre in the field and Bodin in the Council Chamber, was the necessity of saving the Kingdom of France from disintegration and destruction at the hands of furious fanatics. The country was torn from end to end by civil conflict. The central government ceased to function ; the law, together with the elementary maxims of morality, became a dead letter ; feudal anarchy, checked but not destroyed by Louis XI and Francis I, reasserted itself, and the castles of the nobles became hotbeds of sedition and oppression. Robbery, arson, wanton destruction and spoliation rapidly reduced the fruitful provinces of the once prosperous land to the desolation of the desert. Above all, a ferocious cruelty displayed itself, which rejoiced in burnings, tortures, mutilations and other hardly credible barbarities ; while assassinations (defended on principle by high ecclesiastical authority on both sides) became the recognised order of the day. It is estimated that over one million persons lost their lives in the course of these suicidal conflicts, and that one-tenth of the wealth of the kingdom (including many of its most precious art treasures) was destroyed.

Not only, moreover, did the Wars of Religion put an end to the unity and integrity of France ; what was even worse, they opened its frontiers to the foreign foe. Each side, in its reckless frenzy and in its insatiable passion for revenge, sought and secured alien alliances which threatened to bring their country into subjection to strangers. The Huguenots

called in companies of marauding Germans from beyond the Rhine, and they handed over Le Havre to Elizabeth as a base for an English invasion of their land. The Catholics of the League made a formal treaty with Spain, and placed themselves in the service of the arch-enemy of their King. They sought, moreover, to introduce the Papal Inquisition into France, and to supplement secret assassination by public *autos-da-fé*. Patriotism seemed to have ceased to exist for these inflamed and sanguinary sectaries. Humanity itself appeared to have been expelled from their breasts, and to have given place to the legions of the devils of hatred and revenge. The very bands of society were loosed ; men and women, restrained by no law and living in constant peril of death, sank into a condition of primitive savagery rendered hideous by the relics of Christian civilisation which they carried down with them into the abyss. As Kitchin well says : 'Death, moral and physical, brooded over the country. Orgies and murders, savage and dissolute women, effeminate and bloodstained men, met the eye at every turn. No virtue, no faith, no patriotism remained. France was a loathsome body, galvanised into a ghastly life in death.'[10]

The moral corruption which so conspicuously marked the time was no doubt largely due to the fact that when once the theological armies were arrayed against one another, they were joined by many adherents whose aims were purely mundane and secular. The Huguenot cause in particular, as (till 1589) the cause of rebellion, drew to itself bands of nobles whose main concern was to recover their lost feudal independence ; gangs of greedy adventurers who coveted the ecclesiastical lands and revenues which a 'Reformation' such as that recently carried through in England would place at their disposal ; groups of ambitious politicians who wished to supplant the bishops in the high places of the State ; select companies of princes who resented the ascendancy at Court of the Italian Catherine de Medici, or the Carolingian Duke of Guise. The wars, moreover, were largely waged by foreign mercenaries, who when captured received no mercy, and when victorious gave none. In the later phases of the struggle (after 1589), when battle, murder, and sudden death had removed all the original protagonists from the scene ; when, forty branches of the Capetian tree having become extinct,

[10] Kitchin, *History of France*, ii. p. 375.

Henry of Navarre was legitimate King of France ; then Catholicism in its turn grew to be the cause of resistance and revolt. The Duke of Guise of the time advanced pretensions to the throne ; the fickle and unprincipled feudatories threw the force of their anarchic independence on to his side ; the League called in the Spaniards, and the Jesuits advocated federal democracy and tyrannicide. It is remarkable that the Huguenot François Hotman, who in his ' Franco-Gallia ' (1573) had asserted the sovereignty of the people, and had maintained the ancient right of the French to elect and depose their kings, should, when Henry of Navarre had become claimant to the succession, have found his book used as a text-book by the Catholic irreconcilables, and should have been compelled, in the interests of his chief, himself to answer it in a new work entitled ' Le Droit du Neveu sur l'Oncle,' in which he proclaimed the straitest doctrine of Divine hereditary right. With justice does Baudrillart observe ' Ainsi on invoque le suffrage du peuple, *universitatem civium*, quand on croit l'avoir pour soi. Craint-on de ne pas l'avoir, on s'en passe, et l'on déserte avec armes et bagages au *jus haereditarium*.' [11]

II

It is a commonplace that political theories, like theological dogmas, are made to conform to the exigencies of particular circumstances and the insistence of dominant emotions. Just as men create their gods in their own image, so do they frame their polities to suit their own convenience. This was conspicuously the case in the sixteenth century. Did Machiavelli passionately desire his own restoration to Florence, the unification of Italy, and the expulsion of foreigners from the Peninsula, he formulated rules, under the guise of general principles, which he hoped would commend themselves and their author to the Medici, assist them in establishing their ascendancy, and guide them in their dynastic career. Did Luther, in his heretical activities, find himself protected from the fury of the Inquisition by the might and majesty of Frederick of Saxony, and did he desire the suppression of the antinomian excesses of the Anabaptists which were bringing his doctrine into disrepute, he exalted the authority of the

[11] Baudrillart, *Bodin et son Temps*, pp. 64–5.

prince, emphasised the sanctity of law, and inculcated the duty of passive obedience. Did Calvin establish himself in full control of the secular administration of Geneva, he taught the subordination of the State to the Church, and commanded the populace to reverence the magistrates as indirect agents of the divine will. Did John Knox feel that the presbyterian path was blocked by the obstructions of Mary of Guise, or Mary Stuart, or Mary Tudor, he wrote a furious diatribe in general terms respecting 'The Monstrous Regiment of Women,' some unqualified remarks in which he lived to regret when Mary of Guise was dead, Mary Stuart in prison, and Elizabeth reigning in place of Mary Tudor over England.

The *doctrine de circonstance*, however, which rose to special prominence and importance during the sixteenth century, was that of the right of resistance to secular sovereigns, and of the justifiability of tyrannicide. It might be well for Luther to preach the dogma of absolute obedience when he was confident of succour from his prince against both Inquisition and insurrection. It might be easy for Calvin to insist upon respect for magistrates when he himself appointed and controlled them. But even Calvin admitted a qualification. He had a larger and longer outlook than Luther, and he did not fail to perceive, and provide for, the possibility of a less ideal relation of Church and State than that which existed in Geneva. 'Magistrates,' he said, 'derive their authority ultimately from God alone : should they rebel against God, their commission ceases and they are magistrates no more.' Hence 'if they command anything against Him, let us not pay the least regard to it.'[12] Here was an exception which, however small a place it might occupy in the 'Institutes,' really abrogated the rule which Calvin had laboriously formulated. It deprived magistrates, as such, of all right to govern, and placed the final standard of civil authority in the anarchic conscience of the individual.

The question thus raised by Calvin became an intensely practical one in France during the reigns of Henry II and his sons. In 1559 the episcopate (alarmed by the rapid spread of Calvinism) and the government (perturbed by the republicanism, feudalism, constitutionalism and federalism with which it was associated) began a course of repression which commenced with the burning of Dubourg and culminated

[12] Calvin, *Institutes*, bk. iv. chap. 20, § 32.

thirteen years later in the massacre of St. Bartholomew's Day. The Huguenots, thus persecuted and proscribed, reverted to Calvin's exception to the doctrine of obedience, and out of it developed a systematic rule of rebellion and assassination, fortifying their general principles with sanguinary examples, drawn from Old Testament records, of such savage achievements as those of Ehud and Jael.[13] Nor did they content themselves with theory. They began to remove their oppressors with the pistol and the knife. One of their number murdered Francis of Guise (1563), and the evil deed was approved and commended by men so good as Coligny and Beza, just as in Scotland the killing of Cardinal Beaton had been applauded by John Knox.

Towards the end of the century, when the death of the Duke of Alençon-Anjou (1584), the treachery of Henry III (1588), and the accession of Henry of Navarre (1589) had turned the tide in favour of toleration and against Catholic monopoly, the subversive political doctrines of the Calvinists were adopted by the Jesuits and applied with enhanced vigour and efficiency against their earlier advocates. Tyrannicide, which came to mean merely the murder of heretical rulers, became a speciality of the faithful. William of Orange, infested for years by devout assassins, succumbed in 1584 to the sixth actual attempt upon his life ; Elizabeth of England told a French ambassador that she had captured no fewer than fifteen emissaries of Philip II who had confessed that their mission was her murder ; Henry IV of France had survived nineteen attacks before he fell in 1610 beneath the dagger of the pious Ravaillac. The massacre of St. Bartholomew's Day was celebrated with a *Te Deum* and a medal by the Pope, and was the subject of the warmest congratulations on the part of the King of Spain. The extinction of the House of Valois by the treacherous hand of the priest Jacques Clément was applauded by Sixtus V, and was defended in formal treatises by the Parisian curé Jean Boucher, and by the Jesuit publicist Juan de Mariana.[14]

This horrible state of things—in which the body politic was being destroyed by raging religious sects, and in which

[13] *Cf.* particularly the Huguenot organ *Le Réveille-Matin des Français*.

[14] Guillaume Rose also, in his *De Justa Reipublicae Christianae in Reges Impios Auctoritate* (1590), describes the St. Bartholomew massacre as an event *plenum justitia atque honestate*, and eulogises Clément as *innocentissimus et praeclarissimus juvenis*.

the most abominable anti-social crimes were being perpetrated by devout demoniacs and defended by the official heads of the Churches—caused the gradual formation and organisation of the new party of the *Politiques* in France. The name *Politiques* was first coined by zealots as an epithet of hatred and contempt, but later it came to be accepted by the nation as a synonym for sanity amid lunacy, for loyalty amid treason, and for humanity amid bloodthirsty fanaticism. The *Politiques* were defined by their contemporary, Marshall Tavannes, who disapproved of them, as 'those who preferred tranquillity to salvation, and would rather have godless peace than holy war.' A later historian of the Catholic League, the Abbé Anquetil, characterises them briefly but more comprehensively as those who 'placed the interests of the State before religious orthodoxy.' For the most part they were Catholics, or at any rate conformists to Catholicism. As such they, of course, disliked religious disunion, and would have wished to see the whole people comprehended within the communion of the one Church. But, as practical politicians, they perceived that the realisation of that wish was impossible; that Calvinism was too strong to be crushed out by Catholicism, and that it was not strong enough to crush out Catholicism; and, finally, that the struggles of the sects and their respective allies—the turbulent nobility, the insurrectionary communes, the greedy landgrabbers, the professional criminals, the marauding Germans, the piratical English, the mercenary Swiss, and the sanguinary Spaniards—were rapidly effecting the total dismemberment and ruin of the State. Hence, placing the interests of their country above the immediate and apparent (though not, they contended, above the ultimate and real) interests of their Church, they sought peace and pursued it by way of compromise and conciliation. *Politique* sentiments were expressed so early as 1561 by L'Hôpital, Pasquier and Castellion; in 1564 Cardinal Granvella reported to Philip II the definite existence of a *politique* group; but it was not until the horrors of the massacre of 1572 had shocked the conscience of the civilised portion of the world, that the party rose to prominence and power. In 1574 it was joined by the three Montmorency brothers—sons of the old Duke Francis, last of the Constables of France, who had perished in the second war of religion (1567). In 1575 the royal Duke of Alençon, heir-presumptive of the crown, gave

it his adhesion. Next year it received the all-important accession of Henry of Navarre and the chiefs of the Huguenot faction, who, despairing of ascendancy, were prepared to accept toleration. In this same year, too, 1576, Jean Bodin gave the party a programme, and formulated its principles in his great book on the State.[15]

III

Bodin's 'Republic' is a wonderful work. Its mere mass is marvellous. In its final Latin form its six books comprise forty-four chapters—twelve hundred and twenty-one octavo pages; well over a quarter of a million words. Its comprehensiveness is as conspicuous as its bulk: it treats, in one way or another, all the dominant political ideas and all the crucial practical questions of its day. Its erudition is enormous: it shows that Bodin was intimately acquainted with the writings of most previous political theorists, in particular Plato, Aristotle, Machiavelli and Morus (Sir Thomas More), all of whom are usually mentioned in order to be refuted: it reveals him as a master alike of Classical and Hebraic lore; prudent in both the Roman codes, civil and canon, as well as in the customs of the French and other modern peoples; it displays in him an encyclopædic (though curiously uncritical) acquaintance with the histories and traditions of almost all the nations of the earth, living or dead, from China to Peru. Yet its learning is carried easily, if not lightly. For Bodin's was a seminal mind of high originality. Bodin was, indeed, consciously a pioneer: again and again in his 'Republic' does he make the claim that he is dealing with a theme which no one before him has attempted.[16] And in the main the claim is a valid one. Sometimes, as in the case of the doctrine of sovereignty, Bodin's novelty is due to the fact that the phenomena with which he deals are new. Sometimes, as in such matters as the astrological prediction of revolutions,[17] or the mathematical interpretation of justice,[18] his novelty is due to the fact that no one before him had

[15] *Les Six Livres de la République*, Paris, 1576.

[16] A good example occurs at the beginning of his chapter on Sovereignty (bk. i. chap. 8): 'Principio definienda fuit majestas, quam nec philosophorum nec jurisconsultorum quisquam definiit, quum tamen nihil ad Reipublicae naturam intelligendum majus, aut majus necessarium esse videatur.'

[17] Bk. iv. chap. 2.

[18] Bk. vi. chap. 6.

conceived anything so absurd. For Bodin is a curious mixture of the sublime and the ridiculous, of the profound and the superficial, of the wise and the otherwise. He bestrides the transition period from the mediæval to the modern world. As a rule, turning his face towards the future, he beholds with the clear eye of the Renaissance the reality of things as they are; but ever and anon he turns his face backward and sees things through a mist of superstition. We have remarked that, as was general in the Middle Ages, his belief in the devil is much stronger than his belief in God. His firmest faith is in witchcraft. Further, he is enmeshed in the absurdities of astrology, attributing, for example, the success of Caesar to the supposed fact that at the crisis of his fate there was a great conjunction of the superior planets in Scorpio; and giving a long list of disasters which have occurred when the Sun is entering into Libra. Then again he shows gross credulity in respect of the Neo-Pythagorean cult of mystical numbers: he seems, for instance, to have abandoned the House of Valois in despair, not so much because of the corruption and incompetence of its last four representatives, as because Henry III was the sixty-third King of France, and, the numbers seven and nine being both of them fatal to states, there was no possibility of his surviving a combination of the two! Again, on the merest pseudo-metaphysical grounds he rejects *in toto* the Copernican astronomy, and clings to the exploded Ptolemaic fallacy of the geocentric universe.[19]

These strange manifestations of mediæval obscurantism, however, must not blind us to the fact that Bodin was, in the main, a man of light and leading. His 'Responsio ad Paradoxa Malestretti' (1558) was one of the foundation-stones of the modern scientific structure of the science of political economy: it gave, for the first time, a rational explanation of the rise and fall of general prices. His 'Methodus ad facilem Historiarum Cognitionem' (1566) prepared the way for the formulation of all subsequent philosophies of history.[20] Grotius owed to Bodin not a few

[19] 'At Copernici disciplina perspicua demonstratione, quâ nemo hactenus usus est, refelli potuit: scilicet unius corporis simplicis unum esse naturalem motum; caeteros motus aut contra naturam, aut aliunde cieri' (bk. iv. chap. 2).

[20] The *Methodus* contains many notable aphorisms, *e.g.* 'Historia nihil aliud esse debeat quam veritatis et rerum gestarum veluti tabula,' and (in the preamble to the French version) 'La philosophie mourrait d'inanition au milieu de ses préceptes, si elle ne les vivifiait par l'histoire.'

of the fundamental principles of his International Law, in particular his conception of the *Jus Naturale* as, not the unrevealed Law of God, but the general commonsense of the conscience of man—a conception which, though it greatly incensed the theologians, was vital to the purpose which Grotius had in view, viz. the formulation of a code of public morality which should be regarded as authoritative alike by Protestant and Catholic, Christian, Turk and Infidel[21]; two of the chapters of Grotius's 'De Jure Belli et Pacis' are borrowed almost without modification from the fifth book of Bodin's 'Republic.'[22] Hobbes derived from Bodin much more than his theory of sovereignty: in the 'Republic' he found his unfavourable view of man, his lurid idea of the primitive state of nature, his conviction of the urgent need of government to check the excesses of anarchic freedom—almost everything, indeed, necessary to equip a 'Leviathan' except a social contract (and this, after all, is an encumbrance rather than a help to the Leviathan's activity). Finally, Montesquieu, in the most suggestive sections of his 'Esprit des Lois'—those, namely, which developed his theory of climates, and the relativity of political institutions—did little more than work out and exemplify principles which Bodin clearly stated both in his 'Method' and in his 'Republic.'[23]

Bodin's prime purpose, however, in writing the 'Republic' was, as we have seen, not theoretical but practical. It is true that he wished to construct a complete and systematic political science—a science more in harmony with sixteenth-century fact than were the classic treatises which dealt with the ideas inherent in the Greek city state. But this scholastic aim was quite subordinate to Bodin's first great design, which was to defend the shaken monarchy of France; to put a stop to the civil wars; to bring religious persecution to an end; to reduce the feudal nobility to subjection; to counter the appeals to rebellion and tyrannicide which the frantic sectaries (both Calvinist and Jesuit) were making; to restore peace and prosperity to the stricken land. He himself well expresses his purpose when he says that he wishes 'to make subjects obedient unto magistrates; the magistrates unto princes;

[21] Cf. *De Republica*, bk. i. chap. 8: 'Si naturae legibus, id est rectae rationi, principes obligantur,' etc.

[22] Chap. 5, *De artibus bellicis*, and chap. 6, *De jure feciali*.

[23] Bk. v. chap. i.: 'De conformando civitatum statu pro regionum ac populorum varietate, quibusque disciplinis populorum mores dissimilesque naturae percipiantur.'

and the princes unto the laws of God and Nature.' He wishes, in other words, to restore the vanished authority of the Crown, and yet at the same time to conserve the reasonable liberty of the people. His two chief foes were, first, the turbulent aristocracy, who on the one hand seemed bent on converting France into a federal republic resembling the Holy Roman Empire, and on the other hand robbed and slew at will ; secondly, the theocratic priests and presbyters, who on the one hand defied and denounced the secular authority, asserting that it was subordinate to their own, and on the other hand set themselves to establish *imperia in imperio*. The vital parts of the ' Republic ' are those in which Bodin deals with the subversive principles of these two groups, that is to say, those in which he treats of toleration, of tyrannicide, of the duties of magistrates, of the authority of the sovereign, of the place of parties and groups in the State, of the functions of Estates and Parliaments, of the delegation and resumption of powers. But although the ' Republic ' is instinct with antagonism to feudal anarchy and ecclesiastical autonomy, Bodin makes singularly few direct allusions to either of them. His plan is to condemn them indirectly by displaying positive principles with which they are wholly incompatible. He portrays the majesty of the State which the factiousness of feudatories and ecclesiastics is destroying, and formulates the claims of that sovereign authority whose commands they are defying. The scientific form of his work enables him to do this easily and naturally : he can and does point his morals with horrid examples drawn from Greece and Rome, from Palestine and Assyria, from Spain and England, leaving his readers to apply the lessons to their own cases and circumstances. He is a model controversialist. His temper is perfect, and his tone urbane. It is obvious that he is out not to crush but to conciliate ; not to confound but to convert ; not to win a party triumph but to reunify the nation. He evidently wishes to win the sympathy and approval of his opponents by conceding as much to them as he can. Sometimes he seems to weaken his argument by conceding too much, and certainly his unexpected concessions have greatly puzzled posterity. But I think that, if his concessions were examined, it will be found that they do not amount to much, and that they leave the principles for which he is contending intact. We have seen that in the matter of toleration he

agrees with the ecclesiastics that unity of religion is the ideal; but he assures them that they cannot secure it by discussion, and he will not allow them to attempt it by force. Hence nothing but the policy of the *Politiques* remains. So in the matter of tyrannicide. He agrees that tyrannicide is justifiable. But he asks who are tyrants, and he gives so many marks by which they must be distinguished, that it is speedily clear that no such persons exist in Bodin's own day. Regicide, as distinct from tyrannicide, he proceeds utterly to condemn. Again, in the matter of sovereignty, he agrees with those who argue that all earthly rulers must necessarily be subject to the supreme authority of the laws of God, the laws of Nature, and the laws of nations.[24] But when he asks how these pre-eminent codes may be known, how they may be interpreted, how their apparent discords may be resolved, and especially how they may be enforced, it is found that their sanction is a merely moral one, and that they do no more than set up an ideal standard to which the will of the ideal sovereign should conform. As to the contention that positive law is declaratory only, and that it has no validity when it conflicts with the higher codes, he will not hear of it for a moment. That way lies anarchy. As against the theologians whose position he is attacking, he demonstrates with telling effect that in proclaiming the doctrine of sovereignty he is but expounding the principle inherent in the Dispensing Power so extensively employed by the Papacy. The Popes—in particular that great canonist Innocent IV—had claimed and exercised an authority to set aside the clearest commands of Scripture, the most fundamental dictates of the Law of Nature, and the most widespread customs of the community of peoples.

Thus Bodin ends, in spite of all his apparent concessions and seeming surrenders, with a strong affirmation of the supreme authority of the secular sovereign. There are many things, it is true, which the Sovereign Power *ought* not to do: it *ought* not to violate the laws of God, Nature, or Nations; it *ought* not to depart from such fundamental constitutional customs as the so-called Salic Law; it *ought* not to interfere with the *patria potestas*; it *ought* not to meddle with private

[24] 'Si legibus omnibus solutam [potestatem] definiamus, nullus omnino princeps jura majestatis habere comperiatur, cum omnes teneat lex divina, lex item naturae, tum etiam lex omnium gentium communis quae a naturae legibus ac divinis divisas habet rationes,' and again, 'Legibus divinis ac naturalibus principes omnes ac populi omnes aeque obligantur.' *De Republica*, bk. i. chap. 8.

property ; it *ought* not to tax subjects without their own consent ; it *ought* not to legislate without consulting the Estates, and so on. But if it does any of these things which it ought not to do, there is no earthly power capable of calling it to account. *Princeps vero, populusve, in quibus majestas inest, rationem rerum gestarum nemini praeterquam immortali Deo reddere coguntur :* a prince or a people possessed of sovereignty is not bound to render an account of its actions to any save immortal God.[25] It is, indeed, specifically, that same ' mortal God ' to whom Hobbes was later to render so fulsome a homage in his ' Leviathan.' Bodin's primigenial Leviathan, however, it should be remarked, is a much more moral beast than Hobbes's. Bodin wished to commend it, as Hobbes did not, to the favourable notice of priests and presbyters. Hence on the one hand it is ethically bound to conform its behaviour to the tripartite law of God, Nature, and Nations, and on the other hand its first function is to formulate that same supreme law in positive commands, and to enforce it by means of magistrates and courts.

Bodin's insistence on the high ethical function of the State no doubt accounts for the vehement antagonism which he constantly displays towards Machiavelli. In many respects he holds the same view of the State as Machiavelli had set forth in his ' Prince.' Both of them regard it as the supreme form of human association ; both of them see in it the one hope of unity and peace for their distracted peoples ; both of them proclaim its superiority to positive law ; Bodin even goes so far as to agree with Machiavelli that it had its origin, not in divine institution or in social contract, but in violence and conquest.[26] But Machiavelli leaves it in the condition of iniquity in which it arose. He depicts it as maintaining itself by the same methods of force and fraud as gave it its existence. He regards it as emancipated from all law, both divine and human. He treats it as wholly non-moral. Bodin, on the contrary, represents it as—by some process which he does not explain—transmuted and transformed. Having arisen among evil men, amid a condition of chronic conflict,

[25] *De Republica,* bk. i. chap. 8. So again : ' Is majestatem habet qui post Deum immortalem, seipso majorem videt neminem.' Bodin's well-known definition of sovereignty runs : ' Majestas est summa in cives et subditos legibusque soluta potestas.' *De Republica,* bk. i. chap. 8.

[26] ' Eo nos ipsa ratio deducit imperia scilicet ac respublicas vi primum coaluisse, etiamsi ab historia deseramur,' etc., etc. *De Republica,* bk. i. chap. 6.

and by means of the aggression of a powerful conqueror (such as Nimrod, the founder of the first state), in process of time it legitimises itself, it is converted, it receives the divine commission, and undertakes its sacred task. Bodin evidently felt that Machiavelli had done the good cause of the State irreparable harm by his dissociation of politics from ethics. And the harm which he had done was not limited to the realm of ideas : it was displaying itself manifestly in the realm of practical politics. Machiavellianism, whose one criterion was success, was damning itself and the State which it professed to serve, by conspicuous failure. In Italy the spectacular catastrophe of Caesar Borgia's Machiavellian career had discredited the diabolical maxims of the 'Prince.' Discredited in Italy, the Machiavellian system of statecraft had come to France in the person and the policy of the Florentine Catherine de Medici. Catherine's four sons were all brought up to be experts in its devious devices : Henry III, in particular, is said to have read nothing except the 'Prince.' Both Catherine and her children applied the Machiavellian methods to the utmost extent of their by no means contemptible abilities. They murdered, massacred, tortured, betrayed, lied, dissembled, cheated, deceived—did anything, indeed, that they considered to be appropriate to the circumstances in which they found themselves, with a total disregard of all moral scruple. The result was, not triumph, but the ruin of the country, and the extinction of their House amid the execration of the nation and the contemptuous loathing of the civilised world. On the ground of expediency, as well as on the ground of right, Bodin felt that it was necessary to repudiate the infamous folly of the Florentine degenerate. His reunion of politics and ethics was one of his most conspicuous services to the theory of the State.

A second service which Bodin rendered to political science was to bring it back to the method of observation, to renew its relation to historic fact, to restore it to those safe paths of induction from which it had strayed ever since the days of Aristotle. It was the Stoics who had started it on its philosophical detour—a detour no doubt necessary for the determination of metaphysical ends and moral values, but one liable to lead it far from the haunts of living men. Zeno and his disciples—in particular the great Roman thinkers and jurists—had deduced their political theory from the eternal

principles of the universal Law of Nature. The early Christian philosophers, from Saint Paul to Saint Augustine, had followed their lead, for they found that the ideas of the Stoics accorded in a remarkable manner with the precepts of the Gospel : such political theory as the primitive Church possessed was evolved from its fundamental doctrines of the fatherhood of God, the brotherhood of Man, the equality of all to the Kingdom of Heaven, the conception of property and power as trusts. In the Middle Ages the further development of these general principles had led to a complete severance of political theory from practical administration. While Europe was split up into an incalculable number of pastoral tribes, agricultural clans, and feudal fiefs, theologians and scholastic philosophers were discussing the relations of the two universal powers, the Empire and the Papacy, and were deriving their arguments, not from any facts in the objective world, but from their conceptions of the relation of the sun to the moon, or of the soul to the body, and from their interpretations of numerous irrelevant passages of Scripture. The ' Summa ' of Saint Thomas Aquinas, or the ' De Monarchia ' of Dante, was about as much use to the practical politician as were such maps as that of Hereford to the mediæval mariner. Bodin, in his ' Republic,' reverts to the examination of things as they are. He surveys the records of historic fact ; he observes the phenomena of contemporary politics ; and he constructs *portolani* well calculated to guide to the harbour of security and peace the steersmen of the storm-tossed bark of State.

A third service which Bodin rendered to political science was to bring to its elucidation and development the principles of jurisprudence. In this he was reverting to the position, not of the Greek philosophers, but of the Roman lawyers. Most of the distinctively Roman political theory is to be found, explicit or implicit, in the work of the great civilians. Bodin himself was a lawyer, a profound student of the ' Digest ' and the ' Institutes ' ; he began his career as a teacher of jurisprudence ; his first written work was an exposition of the imperial code. His fundamental idea, viz. that of state-sovereignty, was primarily a legal idea,

IV

Enough has been said to show the pioneer importance of Bodin's 'Republic.' True, it is by no means a flawless work. It is intolerably prolix; it is frequently dull and heavy in style; it is overwhelmed with masses of irrelevant information, much of which is inaccurate; it is lacking in harmony and proportion; its theses are not adequately thought out, and it contains not a few irreconcilable contradictions; it is marred, as we have seen, by a number of ridiculous absurdities, relics of mediæval superstition. Nevertheless, with all its defects, it is a great and perennially important book. Well does it deserve the eulogy which Janet bestows upon it: '*La République*,' he says, 'ne peut être comparée pour l'étendue du sujet et la richesse des matériaux qu'à la *Politique* d'Aristote ou à l'*Esprit des Lois*.'[27] Well, too, does its author merit the encomium of Professor Flint, who considers that Bodin 'as a political philosopher had no rival among his contemporaries, and none, at least in his own country, till Montesquieu appeared.'[28]

The 'Republic' made an immense impression upon the age for which it was written. It contributed powerfully to the success of the party of the *Politiques*, and to the triumph of their principles in the Edict of Nantes and the Treaty of Vervins (1598). It helped to build up that royal authority which alone was capable of rescuing the France of the late sixteenth century from the chaos and anarchy into which it had been dragged by sectaries, feudalists, communists and criminals. Published originally in French in 1576, it passed through no fewer than seven editions within three years. When Bodin visited England in 1581, he found it current in an unauthorised and imperfect Latin translation both in Cambridge and in London. The defects of this version; the knowledge that his work was attracting attention in countries other than France; and probably also the fact that events had moved rapidly since the French original had been written, caused him to decide that he himself would put the work into Latin—the language of cosmopolitan culture—and that he would take the opportunity to revise and enlarge it. The preface of the resultant Latin edition is dated from Laon on

[27] Janet, *Histoire de la Science Politique*, ii. p. 114.
[28] Flint, *History of the Philosophy of History*, p. 191.

November 29, 1584, but the actual publication seems to have been delayed until 1586. The Latin version is far superior in precision and exactness of expression to the French : many of the chapters, especially in the fifth book, are considerably fuller.[29] A translation into English, based on both French and Latin versions, was made by Richard Knolles, and published by G. Bishop of London in 1606. It is a very free translation—so free in places as to be regardable rather as a paraphrase of what Bodin may have meant than a rendering of what he actually wrote. Its English, however, is vigorous and epigrammatic, and it contains some pungent *marginalia*.

It is unnecessary, as well as impossible, in an essay such as this to attempt any sort of summary of all the manifold matters treated by Bodin in his extensive survey. It is impossible because of limitations of space. It is unnecessary because two such summaries, admirable in their fulness and accuracy, already exist in easily accessible form, viz. in the second volume of Hallam's ' Literary History of Europe,' and in Baudrillart's ' Bodin et son Temps '—a work, published in 1853, remarkable for the breadth of its learning, for the depth of its penetration, and for the brilliance of its style. Suffice it to say that of the six books of the ' Republic ' the first three treat of what may be called the *statics* of the State—Book I, of its nature and end ; Book II, of its three forms, viz. monarchy, aristocracy, and democracy ; Book III, of its agents and instruments, viz. senates, magistrates, local and functional authorities. Book IV deals with what may be called the *dynamics* of the State, that is to say, with the causes of the rise, the prosperous continuance, and the decline of polities. Book V discusses the relations of States one to another in peace and in war—it is a pioneer treatise on international morality and custom. Book VI is an *omnium gatherum* in which Bodin discourses on censuses and censorships ; on methods of raising and spending public money ; on the principles of coinage ; on the advantages of monarchy over aristocracy and democracy ; on the arguments in favour of primogenitory succession in the male line, and, finally, on the three kinds of justice, viz. geometrical, arithmetical, and harmonic.

[29] For the purpose of this essay use has been made of the Second Latin edition, 1591, and the fifth (very little altered in spite of its *prioribus multo emendatior*), 1599. Both bear the imprint of Nicolas Hoffmann, Frankfurt-on-Main.

All that can be attempted in the few paragraphs that remain is to indicate in the briefest possible manner a few of the outstanding points of interest respecting the doctrine of sovereignty that display themselves above the general level of the vast expanses of the 'Republic.' It will facilitate reference, for those who wish to examine them further, if they are taken in the order in which they occur in the text. (1) Bodin defines the State as 'an association of a number of families having interests in common under the authority of a supreme ruler and right reason'—'right reason' (*ratio*) being what Bodin elsewhere calls, in deference to the terminology of his time, the Law of Nature, or still more widely, the Tripartite Law of God, Nature, and Nations.[30] It is noteworthy that Bodin, anticipating Althusius, makes the State a group of groups, and not a congeries of individuals. Here he is decidedly nearer to truth than Hobbes, Locke, and Rousseau, all of whom build their polities on the substratum of the solitary soul. It is further noteworthy that Bodin makes much of the family: it is the basis, in his opinion, of all civil institutions[31]; it is the model on which the State has framed itself[32]; it is anterior to the State, and it retains rights under the Tripartite Law which the State is morally bound to leave intact. Bodin is enamoured of the Roman *patria potestas*; he attributes the decline of the Roman Republic to its abandonment, and he would fain see it restored in the modern world, as the foundation and support of the superimposed authority by the civil sovereign. (2) The one institution of the patriarchal regime of antique Rome which Bodin would not retain, is slavery. He throws an unwonted passion into his plea for human freedom—a passion which would appear strange if one were not to remember that slavery, which had been almost eliminated from mediæval Christendom, had been reintroduced into the modern world in two new forms, both incomparably more horrible than the slavery of the Roman Empire—one the enslavement of Christians by Moslems, the other the enslavement of blacks by whites.

[30] 'Respublica est familiarum rerumque inter ipsas communium summa potestate ac ratione moderata multitudo,' bk. i. chap. i.

[31] 'Omnium vero civilium societatum origines a familia derivantur, quae ipsa naturalis est societas. . . . Est enim respublica civilis societas quae sine collegiis et corporibus stare per se ipsa potest, sine familia non potest,' bk. iii. chap. 7.

[32] Familia, bene ac prudenter instituta, vera est civitatis ipsius imago,' bk. i. chap. 1.

Bodin repudiates the contention of Aristotle that slavery is natural, and maintains the view of the Stoic lawyers that, however widely it is recognised by the *jus gentium*, it is contrary to right reason. Every man is by nature free, though by no means are all men equal. (3) Citizenship implies freedom. 'A citizen is none other than a freeman who is subject to a sovereign.'[33] The full rights of citizenship in the properly constructed State would, however, be limited to the heads of families possessing the *patria potestas*.[34] An inferior grade of citizenship only is attributable to those under the paternal power. It is curious that Bodin, who in this definition of citizenship is obviously depicting a peaceful and natural development of the State from a union of families, should go out of his way to insist that this union was not, as a matter of fact, effected peacefully and naturally, but was the result of conflict and conquest. Probably he felt that a peaceful and natural union of fathers of families would have issued in an aristocratic republic and not in a monarchy. A monarchy was what he wanted to arrive at, and a monarchy is the product of war. (4) Bodin admits, it is true, that Sovereignty may take any one of the three forms, monarchy, aristocracy, or democracy. It marks, indeed, a capital advance in modern political thought that he should write 'De Republica,' and not, like Machiavelli, 'De Principe,' or, like Mariana, 'De Rege et Regis Institutione.' But his leanings towards monarchy are unconcealed and evident. Long before he formally sets forth the superior advantages of monarchy—a subject which he awkwardly defers to Book VI, Chap. 4—he has made it clear that when he speaks of 'majestas' he is usually thinking of 'His Majesty.' Royal monarchy—as distinct from tyranny on the one hand and proprietorship on the other hand—is his ideal form of State. It is the monarchy of France, purified, refined, strengthened, brought into harmony with the high commands of the laws of God, Nature, and Nations, freed from its foes, and re-established in its proper sovereignty. What the marks of that sovereignty are, Bodin sets forth in impressive detail: but all are included

[33] 'Est autem civis nihil aliud quam liber homo qui summae alterius potestati obligatur,' bk. i. chap. 6.

[34] 'Cum igitur paterfamilias ex aedibus in quibus domesticum imperium habet egreditur foras, seque cum aliis familiarum principibus ad res rationesque contrahendas conjungit, tum certe patrisfamilias ac domini nomen amittit, ut socium ac civem se ferat,' bk. i. chap. 6.

in this—the supreme legislative authority. The Sovereign is the commander who is not commanded. '*Hoc igitur primum sit ac praecipuum caput majestatis, legem universis ac singulis civibus dare posse.*'[35] He can claim to be the first to realise clearly and to state emphatically the axiomatic fact that in every State there must be some authority which is above the law of the State, simply because it makes and can repeal the law. It is a fact of jurisprudence rather than of political science, and, important though it is in its own proper sphere, it does not lead very far in the sphere of political theory. For it does not mean that the legal sovereign is free from moral obligation ; still less does it mean that the legal sovereign is free from physical compulsion. There is an immense gulf between legal omnipotence and practical competence. In Great Britain, for example, the King in Parliament is legally capable of ordering every man to become a woman, and the law courts would be legally bound to inflict upon every man who did not become a woman such penalties as the supreme legislative authority might indicate ; but the practical competence of the King in Parliament to effect the transformation is a very different matter. Political theorists from Bodin to Austin have tried to bridge the gulf which divides legal axiom from practical administration ; some of them have even denied that such a gulf exists. But more and more are modern students of politics realising that it is one thing to possess legal omnipotence, and a wholly different thing to possess the actual power to control the policy of a State. It is a comparatively easy task to determine where in any State the supreme legislative authority resides ; but it is a task that is of little interest save to a student of law. It is a task of almost superhuman difficulty to determine what in any State is the real controlling power ; but to discover this political sovereign and to influence its will for good, is a task on which the future of mankind depends.

F. J. C. Hearnshaw.

[35] Bk. i. chap. 10.

WILLIAM THOMAS

Of all those who have filled the office of Clerk of the Privy Council one, and one alone, still catches the modern eye, and even he owes his preservation rather to a pleasant gift of scandalous anecdote than to any literary merit. And yet during the sixteenth and seventeenth centuries the office was singularly rich in men of distinction : diplomatists like Winwood and Edmondes, Carleton and Thomas Wilkes ; Robert Beale, a controversialist of no mean power ; Sir Thomas Chaloner and Sir Thomas Smith, both scholars of repute ; George Calvert, Lord Baltimore, the founder of Maryland ; Charles Montague, Viscount Halifax, the financier. These are now little more than hollow names, while William Thomas, whom Strype calls ' one of the most learned men of these times,' [1] has long passed into complete oblivion.

That Thomas was of Welsh extraction is comparatively certain, and tradition has long associated him with Llanthomas in the parish of Llanigon, in the extreme north-east corner of Brecknockshire,[2] two miles from the English border ; if this were the case and if Lewis Dwnn's genealogical skill can be trusted, he was the eldest son of a certain Thomas ap Philip ap Bleddyn, his sister Elisabeth marrying a Richard Seyssyllt, and so possibly bringing him into distant kinship with the William Cecil who was later to become famous as Lord Burghley.[3] Or, again, it is just conceivable that he was that William, only son of Cromwell's faithful servant, Walter Thomas of Crickhowel in Wales and Wretyll in Essex, who

[1] Strype, *Ecclesiastical Memorials* (1822), II, i. 13. There is quite a good account of William Thomas by D. Lleufer Thomas in the *D.N.B.* The short article on him in *Y Traethodydd* (1862, pp. 369–376) is worthless.

[2] See T. Jones, *History of Brecknockshire* (1805, reprinted 1898), p. 366 ; he is called William Thomas of Llan Thomas in the grant of arms by William Hawley (Harl. MS. 1507, p. 435 : this is a transcript made in 1681).

[3] Lewis Dwnn's *Heraldic Visitations of Wales*, ed. by Sir S. R. Meyrick (1846), i. p. 159 ; Lans. MS. 104, ff. 183–188.

was described as living in the Temple in August 1536.[4] Thomas is so common a name, and Welsh genealogy so mystical a science, that William Thomas's ancestry must remain a highly speculative problem.

Of his early life and education we again have no certain knowledge, though Wood conjectures, with considerable probability, that he was the William Thomas who was admitted Bachelor of Canon Law at Oxford on December 2, 1529[5] ; that he went to either Oxford or Cambridge, is almost certain ; and if he were Welsh, the former is the more likely of the two. It is not until 1540 that we get on to really firm ground. On May 19 of that year Thomas wrote from London to John Scudamore, one of the receivers of Augmentations, then living at Wilton ; from this letter we gather that Thomas had something to do with the finances of certain of the lately dissolved nunneries, for he speaks of sending down the pensions of the poor nuns of Limebrook and Wormesley (both in Herefordshire), in each case receiving 20*s*. for his labour, ' which is litle ynough but I will desire no more.'[6] The request in this letter, that Scudamore should pay certain moneys to Thomas's mother-in-law at Hereford, is the only indication we have that he was already married ; nor do we know the maiden name of his wife, though on very slender evidence it may be conjectured that she was Margaret, sister of a certain David Watkins who played a minor part in the final tragedy of Thomas's life.

It was about this time, too, that Thomas began to prosper, and we can hardly be wrong in seeing in this prosperity the fruits of the favour with which Sir Anthony Browne, whom he served in some capacity, was beginning to regard him. Sir Anthony was Master of the Horse to Henry VIII, and, though a steady Roman Catholic, had always been sufficiently politic in his religious opinions not to imperil a lifelong friendship with his sovereign. On May 6, 1540, Thomas

[4] *L. and P., Henry VIII*, XI, 297. Walter Thomas's will is to be found at Somerset House in Register Spert, f. 8. He died in 1542 ; he himself speaks of his son, after the Welsh fashion, as William Walter.

[5] *Athenae Oxonienses*, ed. by P. Bliss (1813–20), I, col. 218 ; *Fasti*, ed. by P. Bliss (1815), I, col. 81. The William Thomas who received 6*d*. a day as yeoman with the Queen in December 1528 (*L. and P.*, V, p. 306), is probably someone else, while the man who was a member of a commission acting on the Welsh marches in 1533–4 was Sir William Thomas of Carmarthen and not this William Thomas, as the *D.N.B.* suggests.

[6] *L. and P.*, XV, 688 ; this is dated merely May 19, but is assigned in the calendar to 1540 on apparently good grounds.

was given a lease of the rectory of Hay, formerly belonging to Brecknock Priory[7]; in the following year he was appointed Clerk of the Peace and of the Crown in the counties of Radnor, Brecon and Montgomery, the grant being for life and with permission to perform the office by deputy[8]; in 1543 and 1544 further favours were conferred upon him,[9] and possibly also he is the William Thomas whom we find in the latter year living with Margaret his wife in St. Saviour's parish in Southwark, close under the west end of St. Mary Overy Priory,[10] which had just been granted to his patron, Sir Anthony Browne, as the site for his new town house.

In 1545 there came disaster. Thomas must already have become a vigorous Protestant, and the atmosphere of Sir Anthony Browne's household was probably none too congenial. In addition, he seems to have indulged in gambling, to have lost heavily, and, in order to enable him to flee the country, to have appropriated certain funds belonging to his master. This money he deposited with Acelyne Salvago, an Italian banker, from whom he received bills of exchange drawn on the factor of Vivaldes in Venice.[11] Then he set out with all speed, through western Germany, for Italy.[12] He reached Venice on April 10, 1545, but before he could collect his ill-gotten gains, Edmond Harvel, the English agent in that city, intervened: 'On the X of thinstant,' he writes, 'I receyvid the lres of the xxv of marche concerning the bessines of Willm̄ Thomas late servant to thon^{ble} lord of thorses [Sir Anthony Browne] wich said Thomas arivid her that selff day and season that yor L. lres wer deliverid vnto me. And of his owne motiō declarid me at lenght his fawts & disorders com̄ittid agenst his m^{r} not by malicious minde but by folye & misfortune of playe wich had reducid him to ruine & cō-straynid him to depart frō his m^{r} & contre in grete feare & desperaciō. But entretayning the yong mā w^{t} good words, incōtinently acording [to] yor L. com̄ission I cawsid the Vivaldes factor to restrain of the bills of [exchange] and payment in ther hands. And also by thayde & favo^{r} of the

[7] *L. and P.*, XVI, p. 719.

[8] *Rot. Pat.*, 33 Henry VIII, pt. 6, m. 47. *L. and P.*, XVI, 1488 (29), December 21, 1541.

[9] *L. and P.*, XVIII, i. 226 (76); XIX, i. 80 (24, 64); and possibly also *L. and P.*, XIX, ii. 166 (82), p. 87.

[10] *L. and P.*, XIX, ii. 340 (23), September 13, 1544.

[11] *Acts of P. C.*, I, 176.

[12] *L. and P.*, XX, i. 680.

signorye I have stayid the said Thomas who shal remayne in prison til the kings m^ts farther pleasure be knowen. Ther was found apō him XVI ducats & crowns & one angel brokē w^t the valu of IIIIs of witte monye deliverid to me by Englishmē her presēt. It can not be rehersid what piteful mone the yong mā makith w^t incessable wepings for his trespasses wch semith to greve him nolesse then deth.'[13] A piteous picture, and that Celtic temperament which had led to his downfall continued true to itself, sinking him still further in the depths of despair. On May 3 he is reported as ceasing not 'to make continuall and pitiful lamentacons for his trespassis cōmittid agenst his mast^r and other by fragilite and slipperines of youth for the wch he seamith to be vnderfull penitent.'[14] As soon as the Council in England heard of his apprehension, they ordered the return of the bills of exchange so that Sir Anthony might recover his money.[15] If anything happened to Thomas beyond a short imprisonment in Venice, it is impossible to say, but he certainly dared not return to England; in his own words, most judiciously vague, he was 'constrained by misfortune to abandon the place of my nativity and to walk at random of the wide world.'[16]

Unless the opening phrases of 'The Pilgrim' are the merest literary artifice, Thomas was in Bologna in February 1547, and there had that famous disputation wherein he defended the good name of Henry VIII, now lately deceased—a panegyric which was later to be published as 'Il Pellegrino Inglese.' In December of the same year he was in Rome, where he 'tarried but a smal time,' and in his 'Historie of Italie' he gives a spirited, if somewhat anti-Catholic, description of the Pope's progress to St. Peter's on Christmas Day. Farther south he does not seem to have gone, for his account of Naples makes it abundantly clear that he had never visited that city. Sometime also during the winter of 1547–8 he must have been in Padua, and apparently he was back there again in February 1549, for on the third of that month he wrote to John Tamworth in Venice, sending him the manu-

[13] *Ibid.* XX, i. 515. [14] *Ibid.* XX, i. 649; Harvel to the Council.

[15] *Acts of P. C.*, I, 176; May 31, 1545.

[16] 'Perygrine' or 'The Pilgrim,' in A. d'Aubant's edition of Thomas's works (1774), p. 5. This led Froude to conclude that Thomas left England because of his religious opinions. The title of the contemporary English version of this work is 'Perygrine,' but for convenience' sake I shall refer to it as 'The Pilgrim,' the title by which it is more commonly known.

script of his ' Principal Rvles of the Italian Grammer.' His ' Historie of Italie ' was written about April 1548, and before that date he had undoubtedly visited Genoa and Urbino, Ferrara and Florence. Ferrara he found very pleasing to an eye tired of the winding roads of English cities : ' For you shall finde,' he says, ' above a dousen streetes so iust and euenly sette forthe, that I warrante you there is not so muche as the corner of a house to let a man of his ful sight from the tone end to the tother. Some of whyche streetes lacke lyttell of a myle longe, with the goodly houses and buildynges on bothe sydes so fayre and vniforme, that it semeth all dooen at one tyme and by one agrement as no doubte the most part hath been in deede.' But it is for Florence and its people that he reserves his highest praises. In Florence he writes, ' I continued a certaine space at mine owne charges, and lay a good while with Master Bartholomew Panciatico, one of the noblest citesins,' and he speaks with the greatest enthusiasm of the virtues of the Florentines and of that crown of their intellectual life, the Florentine Academy, where he himself was permitted to be present and to hear the chosen man speak an hour long ' in the Harange, a littel hygher than the reste.' By September 20, 1549, when he dedicated his ' Historie of Italie ' to John, Earl of Warwick, he was back again in London.

The four years that he spent in Italy were not only some of the most important in the formation of Thomas's outlook on life, but also represent the period of his most abundant literary activity. Of his ' Historie of Italie,'[17] which was written about April 1548 and published by Thomas Berthelet in 1549, more will be said later when Thomas's position in relation to Italian influences in England is being considered. His ' Principal Rvles of the Italian Grammer ' was written in Italy sometime before February 1549 and published by Berthelet in 1550.[18] This, the first attempt made to give Englishmen at home and abroad some assistance in conquering the intricacies of the Italian tongue and to provide them with a dictionary ' for the better vnderstandynge of Boccace, Petrarcha and Dante,' is delightfully personal in its treatment.

[17] *The Historie of Italie, a boke excedying profitable to be redde : Because it intreateth of the astate of many and diuers common weales, how thei haue ben, and now be gouerned.* Republished by Thomas Marshe in 1561 and 1562.

[18] It was reprinted by H. Wykes in 1560 and 1567 and by T. Powell in 1562.

There is none of that chilly distance which is commonly preserved in works of this kind between teacher and taught, and though throughout Thomas is following good classical models in the grammatical arts, his treatment is avowedly experimental. 'As for the preposicion and interiection,' he writes, 'if thei neede not to be deuided, than dooe I not muche amisse to ioigne them vnder one in these wordes folowyng : and if thei neede to be deuided, then I referre my correction vnto him, that hereafter shall knowe better cause why, and better meane how to doe it, than I.'

Although it was not published, even in its Italian form, till 1552,[19] 'The Pilgrim,' Thomas's best-known work, was undoubtedly written during his residence in Italy, and for the express purpose of conciliating the new English government and securing his own return from exile. It is an undiluted eulogy of Henry VIII and his actions, especially those concerned with the divorce of Catherine of Aragon and the breach with Rome. While there is no reason to doubt the sincerity of Thomas's religious views and of the vigorous attack he makes upon the Papacy and the Roman Catholics in England, one cannot help feeling that the sole motive which animated him was a determination to justify the late king, right or wrong, and so to find favour in the sight of the new one. Written with a vigour and certainty of diction that almost carries conviction with it, it is really a partisan presentation of a case, a piece of time-serving that achieved its reward. The Italian version was published in 1552, but before that year a manuscript English translation had been made, probably by Thomas himself, though none of the surviving copies of it are in his hand ; the one among the Cotton MSS. in the British Museum[20] is the only one which is certainly contemporary, and may well have been presented to Edward VI, as were other manuscripts now bound up with it in the same volume. This translation, though written in fine masculine English, was never printed during the sixteenth or seventeenth

[19] *Il Pellegrino Inglese ne 'l quele si difende l'innocente, & la Sincera vita del pio & Religioso Re d'Inghilterra Henrico ottauo, bugiardamente caloniato da Clemẽte vii & da gl'altri adulatori de la Sedia Antichristiana* (1552). In the British Museum copy there is no author's name and no dedication to Pietro Aretino as in the English translation : but it looks imperfect, and the first two or three pages may well have been lost.

[20] B.M. MS., Cotton, Vesp., D. XVIII, ff. 46*b*, *et seq.* Other MS. copies in the B.M. are Harl. 353 and Add. 33383 ; in the Bodleian, Bodl., 53 (Madan : *Summary Catalogue*, II, i. 141).

centuries ; Lord Herbert of Cherbury, for example, uses the Italian version for his ' Life & Raigne of King Henry the Eighth,' published in 1649[21] ; in 1774 it formed the bulk of the slim volume issued by Abraham d'Aubant as the ' Works of William Thomas,' and in 1861 it was reprinted by Froude.[22]

In striking contrast to ' The Pilgrim ' was ' The Vanitee of this world,' published by Berthelet in 1549.[23] This is a vigorously written sermon adorned with numerous classical and biblical quotations, and calling on man to forsake pride and pleasure of the body and live only for the good of the soul. It is dedicated to ' my singuler good Ladie, the Ladie Anne Herbert of Wilton,' and Thomas explains the reason for this with a pretty turn of wit not uncommon in his writings : ' me thought it necessarie to publishe vnto the worlde this little woorke, that I haue scraped out of the dust : Not thynkyng therby to obteine redresse of al men, but in hope that some vertuous myndes beholdyng here as in a glasse, the spottes of theyr owne vices, shall yet the rather bende theyr hertes towardes charitee and contempt of these worldely vanitees. And because I haue founde so muche negligence in man, that almost he deserueth not to be warned any more of his folie : therfore did I determine to dedicate my boke vnto a woman, to proue whether it maie take any roote in theim : to the entent that men ashamed, thorough the vertuouse examples of women, maie be prouoked therby to refourme theim selfes, whiche no kinde of admonicion can persuade theim to dooe.'

So when Thomas returned to England in 1549, he found no one who was anxious to remember his financial error of four years before. Sir Anthony Browne was dead, and Thomas had carefully prepared the way for his future advancement. Cecil was probably his kinsman, even if a distant one ; his friend, John Tamworth, to whom he had dedicated his Italian Grammar, was the relative of Archbishop Cranmer, and was soon to become, if he were not so already, the brother-in-law of Sir Walter Mildmay and of Francis Walsingham,

[21] *Cf.* pp. 437–438.

[22] It had been used in manuscript by John Strype and by the compiler of the *Miscellaneous Antiquities* issued from the Strawberry Hill Press in 1772.

[23] The *D.N.B.* says that no copy of this work is extant, but this is an error ; there is no copy in the British Museum, but there is one in the Cambridge University Library (Syn., 8, 54, 142).

then a young man in the early twenties. It was Sir Walter Mildmay who, in 1550, brought about the publication of the 'Principal Rvles of the Italian Grammer,' the manuscript of which had been sent him by Tamworth, and it was Thomasina, Sir Walter's sister, whom Thomas was to marry as his second wife. 'The Pilgrim' must have pleased the King and an ultra-reforming government, the 'Historie of Italie' was dedicated to that rising sun, the Earl of Warwick, while the dedication of the 'Vanitee of this world' marks the connection of Thomas with the house of the Earl of Pembroke, a connection very natural in a man from the Welsh borders and one that he was later greatly to develop.

It is not therefore surprising to find that Thomas's return to favour was extremely rapid. On January 3, 1550, he and Robert Catlyn were jointly granted, in return for the sum of £1014 2*s*. 1*d*., very considerable lands formerly belonging to the College of St. Mary the Virgin Novi Operis and to other lately dissolved guilds of the town of Leicester.[24] In April of the same year the disgrace of William Hunninges, the senior clerk of the Privy Council, possibly in connection with the trouble between Somerset and Warwick, left a vacancy in that office; the other two clerks were promoted, and on April 19 Thomas was sworn clerk with an annual fee of 50 marks, though he was not given a patent of the office for life until May 20, 1551.[25] With Thomas's appointment a very definite change was made in the routine of the Privy Council office; hitherto each clerk had been severally responsible for any or all of their duties; now to Thomas was assigned the sole care of the Privy Council Register, 'to see that nothing worthie to be registred be omitted or lefte unwriten,' and in order that this duty might be discharged efficiently, he was relieved 'of all other maner of businesse.'[26] In consequence, the register from April 1550 to September 24, 1551, is written almost entirely in his hand. Thomas was now in the flood-tide of his prosperity: in June 1550 he was promised the king's interest in the prebend of 'Cantleurs or Cantleus Courte in Poules.'[27] This was the prebend of Kentish Town, then held by one Layton. On January 7, 1551, he received £248

[24] *Rot. Pat.*, 3 Edw. VI, pt. 10, m. 18.

[25] *Acts of P. C.*, II, 433; *Rot. Pat.*, 4 Edw. VI, pt. 2, m. 34.

[26] *Acts of P. C.*, III, 4, April 20, 1550. See also my article on the 'Rough Copies of the Privy Council Register' in the *E. H. R.*, xxxviii. pp. 410–422 (July 1923).

[27] *Acts of P. C.*, III, 53, 58.

as a gift in reward for his services ;[28] a week later he had, as Strype puts it, a good pennyworth of the King, being granted in return for a payment of £278 16*s.* 8*d.* the manor of Lentwarden in Herefordshire, formerly belonging to the monastery of Wigmore, and the manor of Tedlescombe in Sussex, the property of the late priory of Stanley.[29] In February he consolidated his social position by obtaining a grant of arms from Thomas Hawley, Clarenceaux,[30] and in May he was sent to France as secretary to the embassy which was being despatched thither under the Marquis of Northampton, ostensibly to invest Henry II with the order of the Garter but also—and more privately—to treat of a match between Edward VI and Elizabeth, the French King's daughter. For the expenses of his journey Thomas received £100, and he was allowed two servants and diet at the rate of 40*s.* a day—a very different traveller from the miserable wretch who had fled to Venice just six years before. The negotiations for the marriage, however, dragged, agreement could not be reached on the vital question of the amount of the dowry to be settled on Elizabeth, and so Thomas was sent home at the end of June to obtain fresh instructions on this matter. In August we hear that he is once more in France, for a further £200 is granted to him for his posting expenses and diet ; he probably returned to England very shortly afterwards.[31]

But these honours were only outward and visible signs of an inward and more subtle favour. In some way Thomas had succeeded in coming into closer personal contact with the young King than the ordinary duties of a clerk of the Council would have rendered likely, and emboldened possibly by some appreciation of his political wisdom, he submitted to the King, probably towards the end of 1550 or early in 1551, a lengthy list of topics which Edward might discuss and expand, ' bicause there is nothing better learned than that which man laboreth for himself. . . . And when so ever there shall appeare any difficultie that yor ma^{tie} wolde haue discussed, if it shall stande wth yor pleas^{re} I shall most gladly write the circumstance of the best discourses that I can gather tooching that parte, and accordingly present it vnto your

[28] *Acts of P. C.*, II, 186. [29] *Rot. Pat.*, 4 Edw. VI, pt. 8, m. 25.
[30] February 1, 1551. B.M. MS., Harl. 1507, p. 435.
[31] Strype : *Eccles. Mem.*, II, ii. 243 ; *Acts of P. C.*, III, 269, 326 ; *Cal. S. P. For.*, 1547–1553, pp. 103, 123, 133.

highnes.'[32] Apparently Edward profited by Thomas's labours, and finding that on certain important matters, some of pressing necessity and others of mere academic interest, he would like to have Thomas's considered judgment, he sent a gentleman of the privy chamber to ask him to make good his offer. As Thomas himself writes to the King : ' Vpon fridaie last, Mr Throgmerton declared yor Ma^ts^ pleas^re^ vnto me, and deliuered me w^th^all the notes of certein discourses, which according to yor highnes commaundement I shall most gladly applie ; to sende yo^u^ one everie weeke if it be possible for me in so litle tyme to compasse it : as in verie dede it were more than easie ; if the daily seruice of myne office requirid not the great travaile and diligence that it doth.

' And bicause he tolde me yor ma^tie^ wolde first heare myne opinion tooching the reformac̄on of the coyne, albeit that I thinke myself both vnmeete and vnhable to give any iudgement in so great and weightie a matter, w^th^out the counsaill and advise of others, yet syns it is yor highnes pleas^re^ to haue it secret (which I do much com̄ende) I therefore am the bolder to entreprise the declarac̄on of my fantasie : trusting that vpon this grounde better devises and better effect may ensue than my heade alone can contrive.

' And bicause Mr Throgmerton is absent, I haue deliuered it thus sealed to Mr Fitzwillm̄s, to deliuer vnto yor Matie as it were a thinge from the Counsaill. Assuring yor highnes that no creature lyving is or shalbe privie either to this or to any of the rest through me. Which I do kepe so secret to this ende, that yor Matie may vtter these matters as of yor owne studie ; whereby it shall haue the greater creadite wth yor Counsaille.' [33]

Thomas's remarks on the coinage take the form of an astonishingly vigorous attack on the government's policy of debasement and the consequent rise in prices, coupled with a

[32] From the letter to Edward VI, with which Thomas prefaces his ' Commonplaces of State.' The original manuscript of this letter and of the ' Commonplaces,' written in Thomas's own hand and signed by him, is Cotton MS., Titus B., II, ff. 96–102. The ' Commonplaces ' have been printed by Strype, *Eccles. Mem.*, II, i. 156–165, and more accurately by Ellis, *Original Letters*, II, ii. 187 ; the letter was also printed by Nichols, *Literary Remains of Edward VI*, vol. i. pp. clxii–clxiii.

[33] B.M. MS., Cotton, Vesp., D. XVIII, ff. 28–29. The ' Discourses ' are all in this volume and are written in Thomas's own hand. They were printed by Strype, *Eccles. Mem.*, II, ii. 365–393, and more accurately by A. d'Aubant in his edition of Thomas's *Works*. Mr. Fitzwilliams was probably William Fitzwilliam, another gentleman of the privy chamber.

demand for immediate reforms. In fact, so vigorous was his language that in a second letter on the same subject he felt constrained to apologise : ' And wheare in dede I was somewhat earnest for the reformac̄on of the coyne, wherein it pleased yor Matie to com̄aunde myne opinion, trulie my Zeale to my cuntrey did so pricke me, that I coulde not forbeare to exclayme against the faulte ; Liek as for the redresse.' [34]

It is a significant fact that the Council were considering the question of the coinage with the greatest care and anxiety throughout the year 1551, and that they finally embarked upon a definite policy of reform, deciding to issue new and better coins and call down the old. The entries in his Journal in this subject show that Edward was deeply interested, and it can hardly be too much to say that such personal authority as the King possessed was wielded in this, and possibly also in some other matters, under the influence of William Thomas.[35] Of this the Council knew nothing, for there is no doubt that Edward followed Thomas's advice and kept the ' Discourses ' a strict secret.

The two letters on the coinage were followed by three discourses dealing with the more abstract problems of ' Wheather it be expedient to varie wth tyme,' ' What Princes Amitie is best,' and ' Wheather it be better for a com̄onwealthe, that the power be in the nobilit^ie or in the com̄onalt^ie ' ; and the series, as we have it now, is concluded by ' My private opinion toocheng yor Ma^ts ouwarde affaires at this present.' The last is the only one of these four discourses that can be said to have been, like the letters on the coinage, of direct value to the King in the difficult position in which England found herself ; and though it has certain almost inevitable defects, it is on the whole a very able exposure of England's weakness abroad. Under Henry VIII she had enjoyed considerable prestige among the continental powers, ' but nowe the cace is so altered that bicause we arr both hated and contempned of them all,' if we fall into a war, ' we must be a praie to thenemie, or elles throwe ourselfes into the lappe of a deere purchaced frende.' [36] Thomas then discusses the position

[34] B.M. MS., Cotton, Vesp., D. XVIII, f. 32*b*.

[35] There is, however, no evidence in support of Froude's suggestion that Thomas assisted the King in the composition of his journal (*History of England*, v. p. 349).

[36] B.M. MS., Cotton, Vesp., D. XVIII, ff. 34*b*–35.

in detail and suggests what he considers the only policy England can pursue. The French King, 'a doubtfull frende,' and the Emperor, 'a dissembling foo,' must be played off one against the other ; an alliance is to be proposed to the Emperor, and the negotiations as to terms are 'to be dissembled wth such practises of delaies as may best serue to the wynneng of tyme. Whereof yor Matie shall gather twoo comodities. One that by keeping Thempo^r^ in hope of alteracon he may happen to cease from working of that mischief towardes yo^u^ and yor Realme, that the meane tyme he wolde surely go about. And the other the Frenche King may haue cause so to doubt this leage that I belieue he shall not offer to disturbe yo^u^.' [37] In this way time for recuperation would be gained. Nichols [38] regarded Thomas's suggested policy as rather futile, but Froude [39] quotes the larger part of the discourse with cordial approbation, and later historical research has done little to invalidate Thomas's summary of the situation ; he certainly under-estimated the strength of the princely and Protestant opposition to Charles V, but three years after Mühlberg this is hardly to be wondered at, and with this exception the discourse does every credit to its author's political acumen.

To these 'Discourses' Strype would add certain aphorisms of war which he found in the library of John Moore, Bishop of Ely, and which he thought were written by Thomas for the young King's study.[40] This is, however, pure hypothesis, and though a search among the Moore MSS. in the Cambridge University Library has failed to reveal the original manuscript, what internal evidence there is all goes to show that these aphorisms were not written by William Thomas at all.

Finally it may be well to mention here one other literary work which Thomas must have accomplished about this time —the translation from the Italian of Josafat Barbaro's account of his travels to Tana and Persia, designed as a New Year's gift to Edward VI ; the original manuscript with its signed dedication to the King is in the British Museum,[41] but it is unfortunately undated ; it was probably presented after

[37] B.M. MS., Cotton, Vesp., D. XVIII, f. 39.

[38] *Literary Remains of Edward VI*, vol. i. p. clxiv.

[39] *History of England*, i. pp. 308–310.

[40] Strype: *Eccles. Mem.*, II, i. p. 164. Strype prints the manuscript in full in *Eccles. Mem.*, II, pp. 315–327.

[41] Royal MS., 17, C. X. ; published by the Hakluyt Soc., 1873.

1550, that is, after Thomas had become a clerk of the Privy Council and so a household official.

In material prosperity, also, Thomas was making steady progress. The Privy Council had, indeed, refused to grant him the auditorship of Sussex for which he had asked, but only because it had been decided to abolish all such offices.[42] That he did not receive the prebend of 'Cantleurs' in St. Paul's which had been promised to him on the death of William Layton, was also due to no personal dislike of Thomas, but to the implacable determination displayed by Ridley, then Bishop of London, that a 'living appointed and founded for a preacher' be not bestowed upon a layman. Ridley had designed to give it to Edmund Grindall, one of his chaplains, and in a lengthy and most characteristic letter appealing to Sir John Cheke for assistance, he sets forth the whole matter :

'This prebend is an honest man's living of £34 and better, in the King's books. I would with all my heart give it unto Master Grindall ; and so I should have him continually with me, and in my diocese, to preach. But alas ! Sir, I am letted by the means, I fear me, of such as do not fear God. One Mr. William Thomas, one of the clerks of the Council, hath in times past set the Council upon me, to have me grant, that Layton might have alienated the said prebend unto him and his heirs for ever. God was mine aid and defender, that I did not consent unto his ungodly enterprize. Yet I was then so handled afore the Council, that I granted, that whensoever it should fall, I should not give it, before I should make the King's Majesty privy to it, and of acknowledge, before the collation of it. Now Layton is departed, and the prebend is fallen, and certain of the Council, no doubt by this ungodly man's means, have written unto me to stay the collation. And whereas he despaireth that ever I would assent, that a preacher's living should be bestowed on him, he hath procured letters unto me, subscribed with certain of the counsellors' hands, that now the King's Majesty hath determined it unto the furniture of his Highness' stables . . . . Alas ! Mr. Cheke. this seemeth unto me to be a right heavy hearing. Is this the fruit of the gospel ? Speak, Mr. Cheke, speak for God's sake, in God's cause, unto whomsoever you think you may do good withal. And if you will not speak, then I beseech you

[42] *Acts of P. C.*, III, 316 ; July 13, 1551.

let these my letters speak unto Mr. Gates, to Mr. Wrothe, to Mr. Cecil, whom all I do take for men that do fear God.' [43]

Ridley's somewhat fervid eloquence had its effect : John Bradford, another of his chaplains, received the prebend, and Grindall was consoled with the precentorship of St. Paul's. Thomas, however, was not forgotten. On October 8, 1551, he was granted the manor of Garway in Herefordshire, formerly belonging to the Hospital of St. John of Jerusalem at Clerkenwell, and of the clear yearly value of £35.[44] In December of the same year he received the reversion of a grant made some thirty years before of the tolls, customs and subsidies arising in Presteign, Builth and 'Elvell,' in the Marches of Wales, of twenty-nine salt vats at Droitwich, of certain lands there, and of an annuity of forty marks.[45] Finally, in May 1552 Sir Thomas Chaloner, the senior clerk of the Privy Council, resigned, and Armagil Wade was promoted to his place, Thomas getting that formerly occupied by Wade, with a salary of £40 per annum, though now his office was granted to him only during pleasure and not, as before, for life.[46] But he was not yet entirely satisfied with the position he had gained ; whether he foresaw the dangers to which one of such pronounced Protestant views must be exposed on the death of Edward VI, or whether he merely felt that his knowledge of foreign tongues could be employed to more profit in an embassy abroad, it is impossible to say ; but on August 14, 1552, we find him writing from Wilton (the residence of the Herberts) an intimate letter to Cecil, then one of the secretaries of state :

'And sir, whereas, at my departure we talked of Venice, considering the sturre of the worlde is nowe like to be very great those waies, I coulde finde in myne heit to spende a yere or twoo there (if I were sent). I have not disclosed thus much to any man but to you, nor entende not to do.' [47]

This particular desire was not, however, wholly to be gratified. As late as October 7, he is still certifying letters in London as clerk of the Council ; on March 31, 1553, when he was granted the custody of the lands and body of Thomas, the son and heir of Anthony Bourchier deceased,

[43] July 23, 1551. *Works* (Parker Soc.), pp. 33–34 ; the spelling is, of course, modernised. Also printed by Strype and Burnet.

[44] *Rot. Pat.*, 5 Edw. VI, pt. 4, m. 23. [45] *Ibid.*, pt. 2, m. 1.

[46] *Rot. Pat.* 6 Edw. VI, pt. 4, m. 8, 10 ; May 12, 1552.

[47] *S. P. Dom.*, Edw. VI, XIV, 59.

he is described as late clerk of the Privy Council.[48] He had been dismissed from or had resigned his post at court, but he did not attain to the embassy in Venice that he so much desired. Instead he seems to have been sent to attend upon the English ambassadors with the Emperor in Flanders, and in June he was paid £13 6*s*. 8*d*. for coming over to England with letters for the Council.[49] So far as we know, Thomas was still in England when King Edward died on July 6, but what part, if any, he took in the troublous days of Lady Jane Grey's brief reign, it is quite impossible to say. Under the Catholic government of Queen Mary, Thomas, avowed Protestant as he was, must have felt decidedly uneasy. It is true that he now had no office to lose at court, but the fountain of royal favour would, he knew, no longer serve to quench his thirsty ambitions. And not only was he a Protestant, but he seems to have utilised the intimacy which he no doubt still possessed with the officials of the Council, to warn the more active of his co-religionists that proceedings were being taken against them. Strype, for example, narrates that when complaint was made to the Council of Thomas Hancock, who had been minister of Poole in Dorsetshire since 1547 and who, to say the least, had been somewhat incautious in his public attacks upon the Roman Catholics, the accession of Mary seeming only to spur him to greater ardour, Thomas warned him in time to enable him to flee to Normandy, whence he drifted through France to that Mecca of all exiled Protestants, Geneva.[50]

Therefore, whether or not he had imbibed, as Parsons says,[51] the tenets of Christopher Goodman, that impassioned opponent to the regimen of women, the vigour of his religious convictions was quite sufficient to render him suspect to the new government ; however, for the time being he does not seem to have been interfered with. Then came the news of the projected Spanish match. To this Thomas, in common with many other Englishmen, seems to have been strongly opposed and to have expressed his views to his friends, and among others to a certain Sir Nicholas Arnold, even going so far, apparently, as to put some of his arguments against the

[48] B.M. MS. Add., 36767, f. 7. *Rot. Pat.*, 7 Edw. VI, pt. 1, m. 10.

[49] *S. P. Dom.*, Addenda Edw. VI, IV, 47 ; June 17, 1553 ; *Cal. S. P. Spain*, XI, p. 56.

[50] Strype, *Eccles. Mem.*, III, i. pp. 112–113.

[51] Parsons, *Three Conversions of England*, Pt. III, pp. 220–221.

marriage into writing. Did he do more? Arnold, who later turned Queen's evidence in an attempt to save his life, confessed that on December 22 Thomas had come to his house in the parish of St. Bartholomew-the-Less and had asked him, 'whether were ytt not a good devyse to haue all theys perylles that we haue talked of taken away wyth very lytle bludshed, that ys to say by kyllyng of the quene. I thyncke John Fitzwyllyams might be persuaded to do ytt, bycause he semes by hys countenance to be so manly a man that he wyll nott refuse any perill that myght come to hys owne persone to delyuer hys hole natyve countrey frome so many and so greate daungers as be nowe offered ther vnto yf he myght be made to vnderstande them.'[52]

There is nothing inherently improbable about this tale, and of course, if it be true, it abundantly justifies Thomas's execution for high treason; but it must be remembered that Arnold's evidence is tainted by the necessity he was under, of saving his own life by showing that someone else was the originator of the plot to assassinate the Queen; and, for other reasons that will be discussed later, he must be regarded as a dubious witness. Arnold revealed the plan to Sir James Croftes, who told it to John Fitzwilliams; the latter related it to Sir Thomas Wyat, who was so incensed with the idea that, as he says, 'then made I a cudgel with a hole brent in it . . . and sought John Fitzwilliams a whole day, and could not find him. The next day, I sent the cudgel by my man, and bade him bob him well, for the knave is but a spy, and to utter it he durst not, and therefore be bold to beat him; thus my man carried the cudgel three days, to have beaten him.'[53] Meanwhile on December 27 Thomas had left London for Mohun's Ottery,[54] in Devonshire, the residence of Sir Peter Carew, who was also violently opposed to the Spanish match.

[52] Baga de Secretis, Pouch XXX (summarised in the *4th Report of the Deputy Keeper*, App. II, pp. 248–249). There seems to be no evidence in support of Bale's assertion that Thomas was planning an attack on Gardiner. (John Bale: *Scriptorum illustrium maioris Brytanniae*, 1559, Pt. II, p. 110.)

[53] Howell's *State Trials*, i. 863–864. The account of Wyat's trial given here is taken from a manuscript formerly belonging to a Mr. Brereton Bourchier of Barnsley in Gloucestershire (see Bernard, *Catalogi Librorum Manuscriptorum Angliae et Hiberniae*, II, pt. I, p. 256); it is decidedly good and is to be preferred, at any rate so far as this incident is concerned, to that given in the *Chronicle of Queen Jane* (Camden Soc., no. 48, p. 69). For instance, the *Chronicle* gives a different order of persons to whom the murder plot was confided, but Howell's version is confirmed by Dyer's *Reports* (1585 ed.), f. 99*b*.

[54] This is always referred to as Mount Sautrey.

The reason that Thomas himself gave for this journey was that 'I solde a sylynge (ceiling ?) of an house in London to Sir Peter Carewe for XX li and at the desyre of the saide Sir Peter rode to his house to receyue my money';[55] as he stayed with Carew for nearly three weeks, this does not seem a very plausible explanation. Carew fled abroad at the end of January, and as Sir John St. Leger reports, Thomas left Mohun's Ottery two days before Carew's departure.[56] Until February 7 nothing more is heard of him, though the Guildhall indictment speaks of him somewhat too picturesquely as fleeing 'from county to county, in disguise, not knowing where to conceal himself.' Actually, on the evening of that day, which happened to be Ash Wednesday, he, accompanied by his brother-in-law, David Watkins, arrived at the house of John a Mynde, the parson of Badgington, a small village in Gloucestershire, close to that Barnsley where Thomas held lands in the right of his ward, young Thomas Bourchier. Of John a Mynde they begged a bed for the night as it was too late to go on any further. On the morrow Thomas, 'beynge as he saide wery and very evill at ease, desyred to tary with hym longer, and the saide John a Mynde saide he was well pleased.' And to entertain his guest, the worthy John related how one Wyat with a company of rebels was entered into Southwark. Thomas at once declared that he must ride to London to try and save his goods, but Watkins, seeing 'his brother to be wery & sycke and the wether so evyll to labore in, and to be suche grett sterynge of the seid rebelles,' offered to go in his stead. Thomas thereupon wrote two letters, one to his wife and the other to Master Mildmay, his brother-in-law. On Thursday, however, he sent for William Tawney, the parson of Barnsley, hoping that he might be persuaded to carry the letters to London instead of Watkins; but Tawney, having just heard that Wyat was taken and fearing, no doubt, the troubled state of the country, excused himself on the ground that he could get no horse fit to carry him so far. Watkins, then, set out on Friday, February 9, leaving Thomas at Badgington where he rested, as John a Mynde reports: 'sometyme in his chamber, somtyme in the Hall, sometyme in his orchard,

[55] *S. P. Dom.*, Mary, III, 30. *The Life and Times of Sir Peter Carew, Kt.* (1857), ed. by J. Maclean from a manuscript by John Vowell, alias Hooker, describes Carew's activities in full.

[56] *S. P. Dom.*, Mary, III, 5, 6; February 4, 1554. The statement in the indictment of William Thomas that he fled on February 4 must be wrong.

in readynge of the Byble, salust, marcus Aurelius. And most of all a booke of Italyon of his awne. And in the meane tyme As the saide William & the saide John a Mynde talked of the Possibilitie of a mariage to be betwixte the Quenes Grace & the Prynce of Spayne, the said William Thomas saide, I Praye God I haue not offended the Quenes Grace in resonynge of the saide mariage when I was in London, I trust I haue nott.' And on Wednesday, February 14, David Watkins returned, bringing Thomas a letter from his wife's brother in London ; he reported that Thomas's house was seized for the Queen's use, and that Thomas himself was said to have fled the realm, the result, so it was thought, of his brief residence with Sir Peter Carew. On the following day Thomas set out for London, ' apparelled in a white ffryse cote & a Jerken of the same with a ffelte hatte & a poure of mydley hoses.'

Watkins rode with him as far as Quenington and then, accompanied by a certain Thomas Fowler of Barnsley, whose services he had commanded, he hurried on along the main London road. He spent Thursday night at the Sign of the Boar in Abingdon, and on Friday pushed on to the top of the hill beyond Henley, where Fowler left him, ' the same William Thomas havynge in his hande a Picked staffe and a dagger and his berde shaven.' [57]

Already on February 12 the Council had learnt that Thomas was in Gloucestershire, and had written to the sheriff to apprehend him,[58] and the next that we hear is that on February 20 he is committed to the Tower, where he is ' to remayne a parte in secrete custodie without conference of eny but his keper.'[59] Five days later, so despairing was he of his fate, that he tried to commit suicide by ' thrusting himself under the pappes with a knife ' [60] ; the attempt was, however, unsuccessful, and he remained in the Tower until his trial early in May.[61] On Tuesday, May 8, he was brought to the Guildhall, where the grand jury found a true bill against him.

[57] This account of Thomas's wanderings is taken from *State Papers Dom.*, Mary, III, 30 (the examinations of John a Mynde, Alice Henslowe, his servant, William Tawney and Thomas Fowler, February 22, 1554).

[58] *Acts of P. C.*, IV, 392. [59] *Ibid.* IV, 395.

[60] *Chronicle of Queen Jane*, p. 65 (Camden Soc., no. 48).

[61] *D.N.B.* says that Thomas was racked to get some confession implicating the Princess Elizabeth, but it gives no authority for this statement. Strype states that during his imprisonment Thomas wrote many pious letters, exhortations and sonnets (*Eccles. Mem.*, III, i. 278–279). No trace of these survives.

On the following day a petty jury was empanelled from the parish of St. Alban's, Cripplegate, and Thomas again was brought to the Guildhall.[62] He at once objected to the jury, because it included common merchants and he, an esquire, should be tried by men of his own rank and condition. This objection was overruled by the judges, who declared that any man who could expend 40*s.* in freehold or £100 in chattels was competent for this purpose.[63] Thomas thereupon pleaded not guilty to the charge of high treason, and alleged moreover that he was accused thereof by one witness only—Sir Nicholas Arnold—and not by two as the statutes 1 Ed. VI, c. 12, s. 22, and 5 and 6 Ed. VI, c. 11, s. 12, demanded. The judges gave it as their decision, however, that if one of the accusers be a witness of his own knowledge or of his own hearing, that is sufficient, the other may be anyone to whom he has related the charge ; Wyat, for instance, even though he had heard the account of Thomas's treason only at fourth hand, would be a perfectly competent accuser. This decision, though probably quite within the letter of the treason statutes of Edward VI's reign, completely violated their spirit and destroyed the safeguard that had been set up by the legal necessity for two accusers to an indictment for high treason ; for one accuser might henceforth be a mere dummy who had no personal knowledge whatsoever of the alleged crime.[64]

Of Thomas's defence to the charge we know nothing, and in due course he was found guilty and the usual sentence was passed upon him. On May 18 he was drawn upon a sled to Tyburn and there, as Henry Machyn records in his diary,[65] 'he was hangyd, and after ys hed stryken of, and then quartered ; and the morow after ys hed was sett on London bryge, and III quarters set over Crepullgate.' What happened to Thomas's wife after her husband's execution is unknown, but in 1563 an Act was passed for the restitution in blood of

[62] Baga de Secretis, Pouch XXX, summarised in the *4th Report of the Deputy Keeper*, App. II, pp. 248–249.

[63] 25 Ed. III, St. V, c. 2 ; Dyer's *Reports* (ed. of 1585), f. 99*b*.

[64] Dyer's *Reports* (ed. of 1585), f. 99*b*. J. W. Willis-Bund in his *Selection of Cases from the State Trials* (i. 149, ed. of 1879), has quite misunderstood this decision : it did not repeal the Edward VI statutes in regard to the two witnesses, it merely defined the nature of the witnesses, and it could not affect the meaning of 1 and 2 Philip and Mary, c. 10, for it came before it and not after it, as Willis-Bund supposes.

[65] Machyn's *Diary*, p. 63 (Camden Soc.). *The Chronicle of Queen Jane* (Camden Soc.), p. 76, has the cryptic statement that Thomas 'saide he dyed for his country with the three (?) points declared.'

Thomas's only child Anne, though any lands that had been confiscated were not to be restored.[66]

Was he an innocent man wrongly condemned by religious bigotry, or a guilty one who met no more than his just fate? This question it will probably never be possible to answer with any certainty. On the one hand there is little doubt that the vigour of Thomas's religious convictions might well have moved him even to the most extreme measures; on the other it must be remembered that he was really convicted on the evidence of one man—Sir Nicholas Arnold. Arnold was in a perilous position, and the best that can be said of him is that he was a hard man who did not allow sentiment to interfere with self-advancement, and who would undoubtedly save his own life at the expense of his friends; the worst—and his later activities under Queen Mary make the worst seem quite probable—was that he had some understanding with the government: the intrigues in which he took part seemed always to fail, but he came forth unscathed. Sir Nicholas Throgmorton thought him an honest man, but even he believed 'that he seeketh how to discharge himselfe, vsing me as a witnesse, if he could so transferre the deuise (*i.e.* of murdering the Queen) to William Thomas,' and Arnold's attempt to convict Throgmorton of a knowledge of Thomas's plot broke down completely.[67] It is also significant that the judges refused to admit the evidence of John Fitzwilliams on this subject and so expose him to Throgmorton's cross-examination. Wyat had called Fitzwilliams a spy: if this were not true and he were an honest man, the case was not bettered, for the authorities must have thought his evidence would be exceedingly destructive to their charge, and it is very curious that he does not seem to have been arrested. Finally the fact that Thomas did not try to escape, but rode to London, apparently to justify himself before his accusers, must tell in his favour. In short, it may be said that the evidence against Thomas was exceedingly weak, but not conclusively so: he may have been guilty, but the Crown certainly failed to prove it.

[66] No. 43 on Chancery Roll of 5 Eliz.

[67] See the very lively account of Throgmorton's trial in Holinshed's *Chronicle*, pp. 1105–1111 (ed. of 1586–7). If this trial is at all typical, the prisoner was allowed very considerable liberty of speech in his defence, notwithstanding Throgmorton's spirited exhortation to his judges: 'I praie you make not too much hast with me, neither thinke not long for your dinner, for my case requireth leasure, and you haue well dined when you haue doone iustice trulie.'

Of Thomas's personal character and appearance no contemporary has left record ; Wood calls him ' a man of a hot fiery spirit,' [68] and he was certainly incautious in the expression of his opinions. The time-serving nature of the views that are expressed in 'The Pilgrim' may lead critics to find that he was prepared to sacrifice truth on the altar of self-advancement, and there is little doubt that he was ambitious after this world's goods, but the picture that we have of his spending his last hours of freedom in reading once more his favourite books shows a scholarly resignation that must compel our admiration. To have achieved such a position as his, to have gained the confidence of men like Edward VI, Cecil and Mildmay, to have wiped out the stain of his earlier financial indiscretions, he must have had some innate charm as well as the learning which has given him distinction even in the age of Cheke and Smith, Wilson and Ascham. And this distinction is a tribute, not to his knowledge of Greek or of Latin, considerable though that seems to have been, but to his profound understanding of Italy and the Italian language.

In the fifteenth century English scholars had been drawn to Italy and the Italian universities, because there alone could they partake of the intellectual renaissance and obtain guidance in their classical studies. Gradually the learning they acquired was transplanted to England, and there grew up in Oxford a body of humanist scholars, little if at all inferior to the best that Italy could produce. Men no longer needed to seek for classical learning in Italy, where indeed scholarship was already quite perceptibly on the decline. Erasmus came to Oxford because the classics were better taught in that university than anywhere else. But parallel with this change there comes the steady secularisation of scholarship—the layman was superseding the cleric in this as in other spheres, and he found an outlet for his ambition on the splendid if somewhat slippery road trodden by the courtiers of the New Monarchy. And then once more he began to look to Italy for guidance, for Italy, after nearly a century of New Monarchs, had produced the pattern for all diplomatists and for all courtiers. A new stimulus was provided for every man of gentle birth to study Italian, to visit Italy, or at least to read those books wherein the Italians taught the whole and complete art of being a gentleman and a courtier. In his relation

[68] Athenae Oxonienses, I, col. 219.

to Italy William Thomas typifies almost exactly the transition from the renaissance scholar to the Tudor student of good manners. Even if he feels an immense interest in the ruins of classical antiquity (and his description of Rome in his 'Historie of Italie' leaves no doubt of this), yet the country appeals every bit as much to the traveller in him as it does to the scholar ; and when he set down on paper the fruits of his residence there, he produced not a work of deep erudition, but the first guide-book to Italy in the English language—a book that marks the beginning of a new era in our relations with that country, but a sound and practical guide-book for all that. 'His keenness of penetration and ready sympathy with a foreign culture fitted him peculiarly for the work he undertook. . . . It was unquestionably the best English account of any foreign nation written before the seventeenth century ; and its popularity, to judge only from the editions it passed through, points it out as an important channel by which a knowledge of Italy filtered into England.'[69] But if Thomas's book told the young Englishman about to set out on the grand tour, what sort of towns, what sort of people he would find in Italy, if it said much of Roman remains and a little of modern architecture, if it gave him the earliest account he would find of the Florentine Academy, and if it instructed him at considerable length on what an embryo statesman should most desire to know—the various methods of government and how they differed from his own—its omissions are quite as significant. It says nothing of the beauty of the scenery, nothing of the masterpieces of painting and sculpture which were to make Italy so famous : appreciation of these hardly comes to Englishmen until the seventeenth century.

If the traveller were to get the most from his tour, if the Englishman in his own home were to be able to read Petrarch or 'Il Cortegiano,' he must have some knowledge of the Italian tongue ; again is William Thomas the first to make smooth the path before him, and his 'Principal Rvles of the Italian Grammer' is the forerunner of the more august Hollyband and Florio. But fashionable though a smattering of Italian might be, to some it would of necessity remain a closed book, and here again Thomas stands on the threshold of a new era. For

[69] L. Einstein : *The Italian Renaisssance in England*, p. 118. I am indebted to this very valuable little book for much of what I have said as to the intellectual relations of Italy and England.

though his English version of Barbaro's 'Travels to Tana and Persia' was never published, it can rightly claim to be the first of a long series of translations that told the Elizabethan Englishman all that Italy had to teach of war or of exploration, of courtesy or of love.

But possibly more important than all this is the fact that William Thomas was the first Englishman to show in his writings some knowledge and appreciation of Machiavelli and his political philosophy. On Sir Thomas Elyot, whose 'Governour' had been published in 1531, the Italian writer appears to have had no influence whatsoever,[70] but William Thomas both directly and indirectly confesses his indebtedness to him again and again. His historical account of Florence is avowedly taken from that of 'Nicolas Macchiavegli, a notable learned man'; in one of his dissertations presented to Edward VI he quotes among his authorities Machiavelli's 'Discorsi,' while in another—that on what prince's amity is best—phrase after phrase reminds one of the glittering logic of 'Il Principe.' There is indeed little doubt that the political theory of Thomas was greatly influenced by that of Machiavelli. Like the Italian, Thomas discussed purely practical problems, and considered them from the point of view of the preservation of the state. That must be the supreme test, though he holds quite definitely that peace is better than war, that 'more preise shall that prince deserue, that leaueth his realme quiete and welthie vnto his successour, than he that for the conquest of other countreis empouerissheth and disturbeth his owne.'[71] Like Machiavelli too, and this is hardly to be wondered at in a panegyrist of Henry VIII, Thomas firmly believed in the merits of a strong central government; for democracy he has considerable distrust, and while the rule of the nobility is to be preferred, he feels that a powerful prince is needed to keep both nobles and people in order. He was really an early apologist for the Tudor ideals of government, and for this purpose he utilised the methods and arguments that Machiavelli had framed. It is interesting to observe that almost all the writers of the sixteenth century who favoured absolute monarchy—Thomas, Leslie, Merbury and Bedingfield—had come under the influence of the political thought of contemporary Italy.

[70] Thomas Cromwell is said to have read *Il Principe* in manuscript.

[71] Dedication to *The Historie of Italie*.

No less curious is it that it should have been Thomas's profound appreciation of Italian that led him to extol the importance of English as a written language. In the letter to Tamworth that precedes the 'Principal Rvles of the Italian Grammer,' Thomas emphasises the rapidly growing importance of Italian, which, he says, will soon rival Latin or Greek, so valuable were the works that were being written in it. Once he had recognised that a vernacular tongue might scale the stronghold of the classics, it was an obvious step for Thomas to ask himself why his own English should not achieve a similar success. As early as 1531 that great educationist, Juan Luis Vives, whom Thomas may well have heard lecture at Oxford,[72] had advocated the teaching of the vulgar tongue, but only on practical grounds and in order that the more important study of Greek and Latin might be pursued with greater ease and accuracy. 'Let the master know the mother-tongue of the boys exactly,' he writes, 'so that by means of their vernacular he may make his instruction easier and more pleasant for them.'[73] It must be admitted, however, that he realises to the full the value of this vernacular in the ordinary passages of life: 'if a man is learned and fluent in Latin and Greek, he will not appear to be so to a man who speaks some other language than those. For Latinists and Graecians are barbarians to the Parthians and Medes.'[74] Still, the classics are to be the real aim of all education.

This same lamentable incapacity on the part of teachers to express themselves in their own language, which Vives hints at, a slightly later writer describes with picturesque vigour. John Palsgrave, a chaplain to Henry VIII, published in 1540 an English translation of Fullonius' Latin comedy of *Acolastus*, and in his dedication to the King he writes: 'And somme other (*i.e.* schoolmasters) furthermore there be, whiche thoughe they haue by their greatte studye, at youre graces Unyuersyties, soo moche prouffyted in the Latyne tongue, that to shewe an euydente tryalle of theyr lernynge, they canne wryte an Epistle ryght latyne lyke, and therto speake latyne, as the tyme shall mynyster occasyon, very well, yea and haue also by theyr diligence atteyned to a comly vayne in makynge of verses: yet for all this, partely bycause of the rude language

[72] He lectured there every year from 1522 to 1528.

[73] Vives, *On Education*, translated by Foster Watson, p. 103.

[74] Vives, *On Education*, translated by Foster Watson, Introd., p. cxxix. This is quoted from 'De Causis Corruptarum Artium,' in *Vivis Opera*, VI. p. 180.

vsed in their natyue countreyes, where they were borne and firste lerned (as it happened) their grammer rules, & partely bycause that commyng streyght from thense, vnto some of your graces vniuersities, they haue not had occasions to be conuersaunte in suche places of your realme, as the purest englysshe is spoken, they be not able to expresse theyr conceyte in theyr vulgar tonge, ne be not suffycyente, perfectly to open the diuersities of phrases betwene our tonge and the latyn (whiche in my poore iudgemente is the veray chiefe thynge that the schole mayster shulde trauayle in).' Again, be it noted, the vulgar tongue is not loved for itself alone, but merely as a vehicle for the teaching of Latin. But English was slowly coming to its own, at least in the popular estimation, and nothing did more to assist it than the growth of nationalism, the translation of the Bible, and the use of English in the ordinary Church services. 'God himself in our own tongue speaketh to us . . . and Paul is become ours'; [75] or as Mulcaster says with equal truth, 'whilst our religion was restrained to the Latin, it was the only principle to learn to read Latin. But now that we are returned home to our English A B C, as most natural to our soul and most proper to our faith, we are directed by nature to read that first which we speak first, and to care for that most which we ever use most.' [76] It is significant that, when Roger Ascham published his 'Toxophilos' in English in 1545, he should think it needful to apologise for so doing, for he felt that 'to have written it in another tongue (*i.e.* Latin) had been both more profitable for my study, and also more honest for my name'; [77] when he wrote the 'Scholemaster' thirty years later he used English as a matter of course.

It is curious to discover that this growing interest in English prose as a vehicle for literary expression is especially manifest in a small group of men, all of whom were in some way or other connected with Edward VI, and of whom Ascham was himself one; another was Edward's own tutor, Sir John Cheke, who desired that 'our own tongue should be written clean and pure, unmixed and unmangled,' and who 'devised to have declamations, and such other exercises, sometimes in

[75] *Sermons of the right famous and excellent clerk Master Bernardine Ochine.* Translated by Richard Argentyne (1548): Address to the Reader.

[76] Richard Mulcaster: *Positions* (1581), quoted by Foster Watson, *The English Grammar Schools to* 1660, p. 175.

[77] Quoted by Foster Watson: *The Beginnings of the Teaching of Modern Subjects in England*, p. 5.

the universities performed in English.'[78] Yet another was Sir Thomas Smith, one of Edward's secretaries of state, whose 'De recta et emendata linguae Anglicae scriptione,' published at Paris in 1568, strove by means of new phonetic symbols to improve the spelling of the English language, a task which John Hart, Chester Herald, essayed on a more ambitious scale in 'The opening of the unreasonable writing of our Inglish Toung,' dedicated to Edward in 1551 and published eighteen years later.[79] And lastly there was Thomas Wilson, the tutor to the young sons of Charles Brandon, Duke of Suffolk, whose 'Arte of Rhetorique,' published in 1553, contains that oft-quoted condemnation of those 'strange ink-horn terms' with which over-fine writers counterfeit the King's English.

It would have been strange indeed had the beauties of his mother tongue escaped the notice of William Thomas, coming as he must have done into personal contact with these men, and already imbued with the idea that a vernacular language might well challenge the supremacy of the classics in the literary world. But he went further: he saw that for English to be well written, it must be well taught and taught for itself alone, not merely as a medium for instruction in Latin or Greek. The honour of being the first man to advocate this has hitherto been supposed to belong to Richard Mulcaster; but thirty years before he proclaimed to an unresponsive world with a terseness of expression rare in his mouth, 'I loue Rome, but London better, I fauor Italie, but England more, I honor Latin, but I worship the English,'[80] William Thomas was advocating the thorough teaching of English in schools. In the preface to a hitherto unknown manuscript translation of Sacrobosco's treatise 'De Sphaera,'[81] which he made for

[78] Cheke's letter to Sir Thomas Hoby, prefixed to the latter's translation of Castiglione's *Il Cortegiano*; Sir Humphrey Gilbert, *Queene Elizabethes Achademy*.

[79] Royal MS., 17, C. VII. The title of the printed work was *An Orthographie conteyning the due order and reason, howe to write or paint thimage of mannes voice, most like to the life or nature*. It contains the first specimen of phonetically spelt English prose ever printed. See A. J. Ellis, *Early English Pronunciation*, I, p. 35.

[80] *The First Part of the Elementarie which entreateth chefelie of the right writing of our English Tung*, p. 253 (1582).

[81] B.M. MS., Egerton, 837. The short note on f. 1*b*, written in Thomas's own hand, is too pleasing and too typical not to be quoted: 'My good Lorde I coveted to have had this booke better written than it is, and for that purpose comitted it to a Scrivener in London, who in steede of doing it himself hath made one of his boies copie it: and hath also in divers places erred in the figures. It grieveth me to be so deceaved and so much the more, that I shulde give yo^{u} a thinge so rudely handeled.

Yo^{r} owne to comaunde,

Willm̄ Thomas.'

young Harry, Duke of Suffolk (one of those 'two worthy imps, the Duke of Suffolk his sons,' who died in 1551 of 'the posting sweat, that posted from town to town thorow England, and was named stop-gallant : for it spared none '[82]), he wrote :

'Wherfore seing that our nation is no less prompte of capacitie and quicke of memorie, than other nations be, I wolde nowe see what shulde be the cause that amongest so many thousandes of vs as haue studied the latine tongue, it is almost harde to finde any goode Aucthor in our owne mother tongue. Surelie, if I take not my marke amisse, the faulte herof consisteth in the bringing vp of our youthe. For the childe hath no sooner learned his A B C, but straight waies his maister putteth the latine grammer in his hande, and so proceadeth in his teaching him the latine tongue, er ever he can speake good Englishe and what teacheth he him trow you. Ouide, Virgill, Tully, Aristotle, and suche other as he the maister himself dothe sometime skarslie well vnderstande. Wherein the childe consumeth the flowre of his learning youth, and if he arryve ons at the writing of a pistle in latine, than is he saufe enough, though well he can not write halfe apistle in Englishe. For than may he proceade vnto dialectica, and consequentlie ad artem Oratoriam, to see wheather he can surmount Cicero in the latine eloquence. But the maister seeth not heare, thinconvenience of this disorder, bicause he thinketh the speaking and writing of latine sufficient for a learned man, and considereth not that they who at these daies write in the latine tongue, travaile to carie water from their owne welles vnto the Sea : whereas the studie of latine shoulde be, to draw the worthie thinges of the same into their owne tongues. Helas, is it possible to builde well w^t^oute foundation, or to reape wheat where hath been sowen no corne. Can the scholer write w^t^out matier wherof. Or thinke we w^t^ the onelie studie of the latine tongue, to atteigne the well vnderstanding of Virgill, Aristotle or any other such. No, surelie no, that is not the right waie. But if the maister wolde first teache his scholer tundrestande well his owne tonge, and than divert him vnto the maner of speache, and consequentlie vnto the other liberall artes or sciences, that he may knowe howe to reaken in nombres, what thearth is, what the water, ayre and fire, and what the other corporall operations of the creatures, then wolde I well allowe

[82] Strype, *Eccles. Mem.* III, i. pp. 111–112.

him to proceade vnto thinstruction not of the latine tongue alone, but of all the tongues from one to another, vnto the first tongue wherin paper and ynke were founde (if he thinke it goode). For w^t^ the sciences he shal alwaies know what he readeth. And w^t^oute the sciences, though well he had as many tongues as were founde at the confusion of Babell, yet therefore shulde he be litle or nothing the neerer any goode purpose. And albeit I might be answered that bicause we lacke Aucthours in our owne tongue to direct the scholmaisters vnto this trade of teaching, yet w^t^ more reason can I replie, that if the Scholemaister teache the latine tongue he ought to know the sciences, and knowing them in latine, it shulde seeme he shulde be sufficient to teache them in Englishe : and if he know them not, than may he chaunge his latine for pewter well enough. Wherefore if our nation desier to triumphe in Civile knoledge, as other nations do, the meane must be that eche man first covett to florishe in his owne naturall tongue : w^t^oute the whiche he shal haue much ado to be excellent in any other tongue.'

This was Thomas's confession of faith, and one of which even a modern educationalist need not have been ashamed. It may be argued that, though he preceded Mulcaster, his work being unpublished had no effect on later generations. But neither had Mulcaster's—it fell almost still-born from the press. The baleful grip of the classics on the school and the schoolmaster was never more complete than in the first half of the seventeenth century. In 1612 John Brinsley is voicing the same old complaint that children begin to study Latin so early and so exclusively, that they almost forget how to read and write their own English.[83] It was really not until the nineteenth century that the views of Thomas and Mulcaster were to be put into practice, and then by a generation that knew not even their names.

Such are the claims of William Thomas to fame. As a mere clerk of the Council he may well remain in obscurity, but, as a writer of considerable power, as one of the pioneers in England of Italian culture and Italian political thought, as one who strove gallantly, if to no end, for the recognition and right teaching of his native tongue, he deserves at least a small niche in that temple consecrated to the spacious genius of the sixteenth century.

E. R. Adair.

[83] John Brinsley in *Ludus Literarius*.

THE LANCASTRIAN CONSTITUTION

The Lancastrian era has long been recognised as remarkable for the country's strangely precocious development in the direction of constitutional government. Parliament and Council have both been made the subjects of substantial studies by several learned hands, the main features of their histories are familiar matter in the schools, and the surprisingly modern air of many famous incidents has afforded ground for the commonplace generalisation that the fifteenth century witnessed an inordinate growth of parliamentary and constitutional rule which had far outstripped the nation's progress in other directions. Without disputing the general truth of this proposition, we believe that the following pages will show a rather different aspect of the situation, by suggesting that the later splendours of the constitution have been reflected backwards upon the fifteenth century, throwing certain features of it into undue relief and enveloping the whole structure with an appearance of maturity and completeness which is in fact illusory. It is hard to suggest a more difficult feat of historical imagination than that required of one who would picture the English constitution in 1485, having first freed his mind of every thought and bias derived from the seventeenth century and the present age. When one has tried to see Lancastrian institutions as they really were, ungilded by any prophetic visions, one has not only a very different view of the achievements of the fifteenth century, but also a whetted interest in the steps whereby our modern polity evolved from so primitive an ancestor. The accomplishment of this difficult and delicate enterprise cannot be attempted here : the most we can do will be to offer some preliminary considerations in the hope that they will contribute something, however little, towards a reconstruction of the English constitution at the accession of the first of the Tudors.

The object of the present paper, therefore, is to obtain, if

possible, some more precise idea of the constitution which the Tudors inherited, and for that purpose recourse will be had to the books of the Common Law. It is natural that the courts should be frequently called upon, then as now, to adjudicate questions which involve the fundamental principles of government, and so it is to their reported decisions that we now turn in the hope of finding what the keenest lawyers of the age regarded as established and accepted constitutional law. Moreover, the material concealed in the Black Letter folios of the Year Books should be peculiarly appropriate to our purposes, for it is the characteristic of law to seek precision and systematisation at every step. Then, too, the period under investigation should be fruitful in the type of evidence we seek, for it has produced at least two lawyers who have won unusual distinction—Littleton, who reduced the law of real property to a logical system in an immortal treatise, and Fortescue, who has left us two equally remarkable studies on the law and constitution of England. The age of constructive brilliance associated with the names of Hengham and Bereford had indeed vanished, but it was followed by one which showed a marked capacity for systematisation, dialectic and precision. Consequently we may justly assume that the clearest and most definite opinions which the Lancastrians had reached upon constitutional questions will be embodied in the decisions of their Judges as they are reported in the Year Books.

The first case we shall discuss comes from the year 1441, and arose as follows. In 1359 William Edington, Bishop of Winchester, secured from Edward III, whom he had served so long and so faithfully, the grant by charter of many remarkable liberties and privileges for his new foundation of Austin Friars of the order of Grammont at Edington in Wiltshire.[1] Of the many immunities and exemptions conferred upon the house the most striking is thus rendered: 'When the clergy of the realm or those of the province of Canterbury alone or those of the province of York alone shall grant a tenth or any other portion of their spiritualities or ecclesiastical goods, or when the commons of the counties of the realm or the citizens or burgesses of the cities or boroughs of the counties shall grant a tenth or fifteenth or any other portion of their temporal goods or moveables or lands tene-

[1] See the history of the house in Aubrey Jackson's *Wiltshire*, pp. 349 *seq.* The only other house of this order in England was at Ashbridge, co. Bucks.

ments or rents . . . the Rector and Brethren shall not be assessed therefor for the King's behoof, but shall be quit of all such payments.'[2] Needless to say this precious charter was jealously guarded by the 'Good Men of Grammont,' who secured several confirmations of it from successive sovereigns, the last being granted 'by the advice of the Lords Spiritual and Temporal and of the Commonalties of the Realm in Parliament' in 1423 on the accession of Henry VI.[3]

Finally, doubtless owing to the growing burden of the Hundred Years' War, the government determined to attack the charter. The request by the collectors of a tenth to be allowed to reduce their account by the sums which they were unable to collect from the Rector and Brethren by reason of the charter, was refused. The Rector was summoned to the Exchequer, and of course pleaded the charter, whereupon the King's Attorney demurred, and there ensued a remarkable discussion before Hody, Chief Justice of the King's Bench, Newton, Chief Justice of the Common Pleas, Fray, Chief Baron of the Exchequer, and Paston, Fulthorpe and Ayscoghe, Justices of the Common Pleas.[4] Fortescue, opening, based the case of the Crown upon two arguments, first, that the grant was void, for the King could not grant something which he did not possess, and that no grant could be made to the effect that some future obligation not yet in existence should be void—hence the King could not make such an exception until the tax had been voted in Parliament; and secondly, even if the grant were valid, yet since the Rector himself was one of the clergy who voted the tenth to the King, he is 'estopped' from using the grant.

The arguments that were exchanged upon these two points, and especially upon the former of them, are a striking example of how mediæval lawyers regarded matters of government from the point of view of private law. Fortescue (who this very term was raised to the Chief Justiceship of the King's Bench) based the case of the Crown upon two principles of private law, and those who followed him in the discussion continued to seek analogies in the Common Law of contract, estoppel, and real property. Yelverton and Markham for the Rector replied that the king could grant several things which he did not possess, and expounded the

[2] *Cal. Chart.* (1341–1417), pp. 162–3.
[3] *Cal. Pat.* (1422–1429), p. 155.
[4] Y. B. Pasch. 19 Hen. VI, no. 1.

nature of grants, releases and confirmations. As for the alleged estoppel, Markham neatly turned it against the King by declaring that the charter estopped the King from demanding the tax, the result being to extinguish both estoppels and leave the matter at large. Another point made by Markham is very characteristic : a lord can grant to his tenant that he shall not be liable to the lord for waste, or that the lord will not exact feudal dues, or the penalties to which he is entitled by the action of *Cessavit*, and such a grant is good. So here, the King may grant an exemption from taxation and it will be valid. To this a remarkable objection was made by Vampage, who argued that the cases were not alike, for the lord comes to his seignory by inheritance, but the King does not inherit the tax. In other words, the King cannot grant exemption from taxes because they are not a hereditament ! This drew some remarks from Chief Baron Fray which deserve quotation :—

' Sir, it seems to me that the grant is good, for the thing is in the King at the time of the grant. For the Parliament is the King's Court and the highest court he has, and the Law is the highest inheritance that the King has, for by the Law he himself and all his subjects are ruled, and if there were no Law there would be no King and no inheritance. Now, by this law he is to have all the amercements and revenues of his courts, as the King's Bench, the Common Pleas, &c., and by his authority and writ parties are to be called to answer in his court. Similarly, the Lords are called by his writ to come to his Parliament, and others by his writ are to be elected as Knights and Burgesses, &c. Attainders and forfeitures which are adjudged in the said Parliament are the revenues of the court, and so are tenths and fifteenths. Now, shall the Rector, by this grant of revenues, be different from any other person to whom the King has granted the fines and amercements made by his tenants in any other of his courts, of whose revenues they are part ? [5] (as if to say that there is no reason for it), for the law gives inheritance of one court as strongly as another.'

In short, the King can exempt from taxation because he inherits the right to it as part of the profits of his Court of Parliament.[6] Parliamentary taxation had been a regular

[5] The text is corrupt, but the above is clearly its sense.

[6] For similar arguments based on the King's inheritance, see below, p. 173.

feature of English life for a century and more, but when the Chief Baron of the Exchequer needs a political theory of the taxing power, he has to regard it as if it were merely the incident of a hereditary feudal court. The King's revenue is the revenue of his Court of Parliament, just as are fines in the King's Bench—or even the penny amercements of country yokels in a manorial court. This idea was evidently found to be helpful, for we find that Chief Justice Hody repeated it at a later day when the case was argued anew, saying that the tax was a profit of his Court of Parliament and could therefore be granted even before it accrued, just as could the profits of any other court. But even in 1441 there was a mind acute enough to see that parliamentary taxation will not fit into a feudal theory. Newton, the other Chief Justice, clearly exposed the fallacy :

' The fifteenth granted to the King by his people cannot be called a perquisite or a profit of his Court of Parliament, for the perquisites or profits of his courts are things which accrue to him through a forfeiture to his law (as of issues lost by my disobedience of the King's command to appear in court, or for licence to do a certain thing, as a fine for levying a final concord) ; but this fifteenth is a grant by the spontaneous will of his people. This proves that it is not a right in him before grant is made, in virtue of his inheritance of the courts, as are issues and other profits.'

This objection moved the Chief Baron to develop his theory further, with the result that he now added that, nevertheless, tenths and fifteenths were rightly to be considered as part of the King's inheritance in his courts, ' for the law which binds the King to defend his people, also binds the people to grant of their goods to him in aid of that defence—which proves the inheritance. And as to what has been said about the grant taking its effect from his people, I deny it, for even after a grant has been made by the people, it is necessary that the lords of the realm approve, and that the King accept.' By such arguments as these, then, was the taxing power to be still confined within the scheme of private law where it had been placed by the feudal age.

The discussion of the alleged estoppel also produced some interesting political theory. Hody himself found one reason for not regarding the situation as a question of estoppel, for, as he pointed out, even if the Rector had withheld his consent

from the grant in Parliament, it would none the less bind him, for *ubi maior pars ibi tota vis* ; consequently, as he could not help the grant, he ought not to be prejudiced by it in this case. In other words, Hody has discovered that a grant in Parliament is something more than a mere private contract. But a still more striking contribution came from Markham, who speculates thus upon the nature of Parliament :

' It has been said that the general grant of a fifteenth to the King was made by Parliament in which all the clergy of the realm were party, and that so the Rector was party to the grant, which will thus exclude the special grant exempting him. I deny this, for although the grant was made in Parliament yet it shall not bind everybody.

' Let us suppose that a member of the commonalty of London is disseised of his free tenement by a stranger, and that then the Mayor and Commonalty release to the disseisor ; this release made by all the Commonalty will not bar him from his particular inheritance, forasmuch as he does not claim it as one of the Commonalty but as a private person. Again, this can be proved, for if it were the Commonalty which was disseised and then each person separately released to the disseisor, it will not avail, for they must release by their common seal. . . . So here, although the Rector was party to the general grant of the fifteenth, yet the special grant made to him alone is not defeated thereby unless there are special words to that effect.'

These words incidentally serve as a useful reminder that not only does Parliament consist in part of commonalties, but they also taken together form a commonalty—to which Markham ascribes attributes which show that he has a good grasp of the more obvious characteristics of a corporation. All the same, it is none the less significant that it is to a conveyance made by a corporation that he goes when he wants to explain the nature of a parliamentary tax, and that he bases its binding force over the public on the same considerations as govern the relations of a corporation to its constituent members. A grant to the Crown by a commonalty does not affect special arrangements made between the Crown and one member of the commonalty in his individual capacity. Such a theory of the constitution would have some very unexpected results if it were logically applied, but Markham is perfectly unconcerned at the ultimate implications of his proposition. It is

enough for him that under such a constitution his client is clearly exempt from tax. Indeed, from one point of view, Markham's last words would almost seem to show the fallacy of his position ; for has he not confessed that his client's privilege would be defeated if the grant contained express words to that effect ? That is to say, if an act of the commonalty in Parliament expressly stated so, would it not undoubtedly override special arrangements between the Crown and an individual ? If so, Parliament must be something more than merely the sum of its constituents considered in their corporate capacity—something more than an ordinary college, gild or ' commonalty.' To-day this difference would be expressed in terms of sovereignty ; to Markham it is only seen through a glass darkly, if at all. Certainly he omits to consider whether the same superiority might not still be involved in an act which was simply in general terms (as in the present case)—thereby rendering invalid his analogy drawn from the city of London and the distinction between his client as represented in Parliament and as a private individual, while the question of the validity of a royal exemption from parliamentary taxation would still remain untouched. The question is important, and will only be safely answered in the light of further evidence.[7]

It is only after three folios that we find an argument that has anything like a modern sound, and it comes at last from Fortescue. He drew light from the fact that statutes in general terms had been held to apply only in common law jurisdictions. Thus although the statute *De Donis* gave a writ of formedon to recover entailed lands, yet Londoners do not have the advantage of this writ, but must use the old writ of right, for they are not at common law and therefore not subject to the statute unless expressly mentioned in it.[8] So here, the general grant will only bind those ' at common law ' and will not extend to privileged people. We would very much like to hear more of the discussion, but at this point the report concludes with an adjournment. What decision, if any, was reached we cannot tell. The arguments were several times adjourned, and in one instance ' the Chief Baron prayed all the Justices and Serjeants to be well advised upon the matter, so that by their advice he can give judgment

[7] See below, p. 169.

[8] As to this, see Dyer, 373, and 1 And. 71, disputed in Hob. 47.

according to law, for many abbeys in the kingdom are in a similar position.' Test case as it was, we can find no decision. From the arguments it would seem that the Rector was in a strong position, but one cannot anticipate the judgment upon so inconclusive a debate.[9] But for our purposes the decision is less important than the process of reaching it. Parliament as a hereditary court, national taxation as the profits of a franchise—these ideas are mingled with only slightly more modern notions which regard parliament as the realm in a corporate sense, from which the individual citizen has somehow to be separated, making his own private ' contract ' which is to be set up against that made by the commonalty in parliament. Finally, we must observe that even these few thoughts upon the constitution are only to be obtained after painfully searching for analogies in the law of estoppel and contract, corporations—and even suicide.[10]

This is by no means the only case where lawyers were puzzled by the relationship between a body such as parliament and one of its members. Only the next year the same question was raised in a slightly different form, and in connection with a different body—Convocation. The Year Book[11] tells us that the Archbishop of Canterbury held a Convocation of his clergy in which a clerical tenth was voted to the King. He duly acquainted Chancery of the fact and received in return the King's writ authorising him to nominate suitable persons to collect the tax, and in virtue of this writ the Archbishop commanded the Prior of Leeds to proceed with the collection of the taxes. Now the Prior being old and feeble had shortly before secured letters patent[12] exempting him from collecting any tenth, and professing to be his sufficient discharge, should he be called in account at the Exchequer. In due course the Prior appeared and ' put in ' his letters and prayed to be discharged from the Court. The Barons doubted, and adjourned the matter to the Exchequer Chamber before the Chancellor and all the Justices. Many points were raised, especially of the relationship of Church and State, which we cannot discuss

[9] Montague, C.J., in 1552 felt that the Rector was having the better of the argument, Plowd., 59.

[10] Paston seems to have found some connection between *felo de se* and rent-charges which the present text of the Year Book effectually conceals. He also announced an interesting sentence on the relations of Church and State with the individual, which is too good to be lost : *quod non capit Christus, capit fiscus.*

[11] Y. B. Mich. 20 Hen. VI, 25.

[12] *Cal. Pat.* (1436–1441), p. 344.

at this moment.[13] The striking feature of the case is that the Convocation in the grant explicitly provided that no privileged person should be discharged from being collector. At the very first the Crown observed that the Prior ought to have raised the question of his patent in Convocation when the proviso was being discussed, and that having neglected this step he resigned the benefit of the patent. Justice Ayscoghe was also of this opinion, and even suggested that the Prior was in consequence estopped from using his patent, but Chief Justice Hody strongly objected, for in his opinion the courts alone (and not Convocation) had authority to allow or disallow the King's patent. Ayscoghe later put much stress upon the fact that the grant by Convocation was specially worded with an explicit proviso overriding such exemptions as the Prior was pleading. The situation in fact was exactly that imagined by Markham in the previous case, when he said that 'although the Rector was party to the general grant of the fifteenth, yet the special grant made to him alone is not defeated thereby unless there are special words to that effect.'[14] In this case there are special words, and Ayscoghe went on to argue that they would defeat the letters patent, just as Markham had surmised. We have already noticed[15] that Markham's words might seem to suggest that he is faintly aware of some peculiar attribute of Parliament akin to the modern idea of sovereignty. But before we finally commit ourselves to this view it will be well to consider the perils of thinking our history backwards, and thus of crediting him with the dogma that express words of Parliament will defeat the King's patent. Ayscoghe shows that Markham's statement is susceptible of another interpretation. He says : 'Notwithstanding that the King by his letters patent has discharged the Prior from the act of collecting the tax, and that this discharge is effectual in law, I still think that since the grant was special with the "proviso . . .," and since the Prior was a member of the Convocation and did not put forward any claim to the benefit of the patent before the members of the Convocation, that therefore he has resigned the benefit of the patent—even if the Convocation had no power to allow or disallow the patent. . . . *Chancellor of England :* You say well, for when

[13] There are some brief comments by Sir Paul Vinogradoff in *Law Quarterly Review*, xxix. pp. 282–3.

[14] Above, p. 166.

[15] Above, p. 167.

a man is present and says nothing, it is clear that he renounces.' Asycoghe concedes that to have pleaded the patent in Convocation would have settled nothing, for they had no authority to entertain the matter, yet all the same he holds that the Prior's failure to make at least a protest is fatal. But he was silent, and, as the Chancellor observed, silence means consent.

A truly remarkable doctrine, and one which at first sight looks almost primitive. The Prior is one of the Convocation, and when they are about to make an act defeating his privilege he is expected to protest—make a speech and vote against it, as we should say to-day—and then his privilege is saved. Does this mean that a minority is not bound by the acts of the majority if it formally protests against them? In spite of appearances, we think not, for there is ample evidence that the majority principle was fairly well established at this time. The context will show clearly enough that the idea that runs in Ayscoghe's mind is simply the doctrine of estoppel. By saying nothing, the Prior missed an opportunity of making his claim so clear that when the matter came into a competent court he could not be reproached with having compromised his right. Again, let us suppose that the Prior had taken the course that Ayscoghe suggested. The express words of the proposed act of Convocation conflict with the King's patent, the Prior protests, and the act is passed in spite of the protest. Then the Prior comes into the Court of Exchequer Chamber and pleads his patent there before the Barons—and Ayscoghe tells us that they would then uphold the patent. The modern mind seeking the principle of public law in this case is tempted to conclude from it that an act of Convocation which conflicts with an act of prerogative is void, and that the judges in the Exchequer Chamber are prepared to give judgment on these lines. We should then be properly reminded that Parliament and Convocation have co-ordinate powers within their several jurisdictions, and the learned would refer us to certain decisions under the later Stewarts.[16]

Nothing could be more misleading. As we have learned from the previous case, we cannot safely speak of mediæval public law until a most rigorous examination of the texts has been made, and such a scrutiny has so far revealed not public but private law. The same is again true here. Ayscoghe

[16] For example *Godden* v. *Hales*, 2 Shower, 475; 8 Bac. Abr., 70–79.

knows nothing of a constitution. All that he tells us is drawn from private law. The 'acts' of Convocation that we read of are as often called in the Year Book by their more accurate name, 'grants.' Now 'grant' is a technical term of the conveyancers. If we give land we make a 'feoffment'; if we give an incorporeal thing (something intangible such as an advowson, a rent, an office, or the like) we make a 'grant.'[17] So our case is fundamentally the problem of two conflicting grants—two conveyances, two 'deeds.' It is well known that the Middle Age was very fond of these incorporeal things and skilfully used them to eke out its feeble law of contract.[18] But they served other ends as well, for public rights and duties, revenues, offices, jurisdiction—these are all incorporeal things, pieces of private property subject to private law. They supply the place of a constitution.

What then is the interpretation of Ayscoghe's words? We believe it to be this. The King has granted to the Prior of Leeds a certain thing, that is to say, the privilege of not being compelled to collect clerical taxes. Later, Convocation (of which he is a part, and to whose proceedings some think he is a 'party') grants to the King another thing, namely, a clerical subsidy, which grant expressly gives back to the King the thing which he had previously granted to the Prior. Ayscoghe tells us that the proper course would have been for the Prior to have protested against the proceedings in Convocation, maintaining as it were 'continual claim'[19] to the thing of which Convocation would deprive him. Then when the case comes before the Judges in the Exchequer Chamber, he thinks that they would hold that 'this release made by all the commonalty will not bar him from his particular inheritance, forasmuch as he does not claim it as one of the commonalty but as a private person'—as we might say, using Markham's words.[20] Ayscoghe, in fact, accepts Markham's theory with this addition, that even special words in the corporate grant will not defeat the grant to one of its members if he makes protest to maintain his claim at the time when it is being infringed. But by keeping silent the Prior allowed himself to be associated with a grant which was inconsistent

[17] See Sheppard's *Touchstone*, pp. 203, 228.
[18] Pollock and Maitland, *History of English Law*, ii. p. 145.
[19] For 'continual claim,' see Littleton, *Tenures*, § 414.
[20] Above, p. 166.

with his patent, and so the grant of the Convocation will be sufficiently his own deed to estop him from having the benefit of the King's concession. Such is Ayscoghe's view of the matter, and the Chancellor's, too,[21] but once again the report closes without telling us of a decision, and for a second time these fundamental questions are asked, and argued—and left unanswered.

Many things happened in the course of the next forty years, but in spite of three changes of dynasty the law and its problems continued the same. Under Edward IV the old questions reappeared and were debated by the Serjeants and Justices exactly as under Henry VI. An entirely new generation of lawyers had arisen, but their political thought—or lack of it—was almost exactly that of their predecessors. One new idea is contributed to the discussion, but it seems to have fallen upon particularly rocky ground. In 1480 the Abbot of Waltham found himself in the position of the Prior of Leeds, that is to say, trying to convince a full bench in the Exchequer Chamber that royal letters patent would avail to exempt him from collecting a clerical subsidy, although Convocation had made an explicit proviso to the effect that no privileged person should have the benefit of any exemptions whatever. The Abbot's plea was long and impressive. He traced his exemption from the time of Richard II and gave references to the records of the Exchequer where it had prudently been enrolled. In the court below he seems to have won the first round, the Barons having decided in his favour. The Sheriff, however, still continued to distrain him, so the Abbot now brings the matter into the Exchequer Chamber.[22]

[21] Our report has a special (if minor) interest, since we have the unusual spectacle of a Year Book correcting a Chancellor upon a point which should be his own speciality. The principle that silence means consent comes from the Canon Law, where occurs the famous maxim: '*Qui tacet consentire videtur*' (reg. xliii. in VI°). Our reporter writes, 'Query, because the gloss says . . . "where his advantage is concerned," but here the advantage of the Prior was not concerned (*tractabatur*).' The gloss he refers to must be that to reg. xliv. *eo.* which reads, 'the gloss [in the Civil Law] gives another doctrine, viz. where the transaction is to the advantage and honour of one who is silent, then he is presumed to consent. But if it involves his disadvantage, he is not considered as consenting; *l. filiusfamilias*, § *inuitus*, ff. *de procura.*,' (*i.e.* Dig. 3. 3. 8. § 1). This is evidently the basis of the reporter's criticism of the Chancellor, and he deserves some credit for having ventured so far into the *Corpus Juris Canonici*. But we regret to add that the gloss continues thus: 'but the first doctrine is truer and safer than this one.'

[22] Y. B. Mich. 21 Edw. IV, no. 6.

Catesby and Pigot for the Crown adduced the usual arguments. The patent would be good enough in the Exchequer if there had been no proviso in the grant by Convocation, but since there was the proviso he is estopped from using the patent, for the proviso is his own grant to which he is party and privy; for 'among the clergy Convocation is as powerful as Parliament is among the temporalty, and every Act of Parliament binds everyone to whom it extends, forasmuch as every man is party and privy to the Parliament, for the Commons have one or two from every county to bind or unbind the whole county. By the same reasoning every Abbot, Prior and beneficed clerk is privy and party to the Convocation, and so it is reasonable that he should be estopped by the acts made in the Convocation.' Pigot added the now familiar point that if the Abbot had wished to take advantage of his exemption, he should have made his protest in Convocation; since he did not, then it is clear that he meant to resign his privilege for that occasion. The Chief Baron also rehearsed familiar matter when he argued that the patent was useless for the reason that the King has inheritance in his taxes, as is shown by the fact that if he die before they are received, they will descend to his heir; similarly the Bishops have another incorporeal hereditament, that is to say, that of choosing and ordaining any collector whom they wish. But suppose that the King can exempt one clerk from this burden, then he can exempt two, and three, or all of them, and so the Bishop might have to collect the tax himself—which is the mediæval way of demonstrating that such a grant from the Crown is really taking away something from the inheritance of a third party, and it is universally allowed that the king cannot disinherit his subjects by patent. So far we have been purely in the realm of private law; both the tax and the nomination of collectors are treated as things which can be, and are, inherited. A Serjeant called Starkey, however, introduces for the first time into these cases something like a modern note. Starkey does not seem to have attained more than ordinary success at the Bar, but this argument of his stands out in striking contrast to the speeches of his fellows. He alone sees the case as a modern publicist would see it. His words are:

'It seems to me that the charter should be allowed. As for what has been said about disallowing it on the ground that

it must be construed to the King's advantage, you, Sir, are not here to argue for the King's lucre, but to administer justice between the party and the King. . . . And in this case the charter should be allowed : otherwise you will have to affirm that the authority and jurisdiction of Convocation is higher and greater than the authority of the King in his prerogative, of which the contrary is true. The King has exempted the Abbot by these letters patent, and nothing is shown against them save an act made in the Convocation which is below the power and authority of the King. (Vavisour and Browne conceded this ; and they say that this is a strong argument, and that no one can deny but that the King could have discharged the Abbot from paying the tenth altogether, and that he would be discharged by this grant if the tenth were granted afterwards, notwithstanding that he was a party to the grant.')

Starkey is the first of the counsel who have been engaged in these cases to realise that the question at the root of them all is that of the Prerogative. Not only does he clearly see and state this point, but he also takes the significant step of using this very word ' prerogative ' to describe that power of the Crown which could be ranged against the ' authority and jurisdiction ' of Convocation and Parliament. We therefore believe that this case warrants us in saying that Starkey has done two important things : first he has discovered that the question is one of public, constitutional law and not of private law, and secondly, he has foreshadowed the new meaning which the word ' prerogative ' will bear when it too has become a term of constitutional law. To the mediæval lawyer ' *praerogativa Regis* ' means a document of unknown origin[23] (sometimes called a statute, but without sufficient grounds) which contains a number of details upon various points of feudal law bearing upon the relation of the King to his tenants. It is, in fact, a short treatise upon the law of landlord and tenant, with special reference to the case where the lord happens to be the King. It shows us a very mediæval view of monarchy. The King had acquired a court and a certain amount of control over it, and so was able to enforce through its machinery a few advantages which lower tenants did not enjoy. These are his prerogative. Other lords had courts as well, and might have thought of making themselves

[23] S. R., i. p. 226.

'prerogative' in them,[24] but the King promptly put an end to such a possibility. He made a rule that none need answer for his freehold without the King's writ, and so sub-tenants gladly went to the King's court, where they could be sure that they would be judged by the ordinary law. As for the tenants in chief, there was only one course—and that was armed revolt. The treaty which they finally made with the King said something about not depriving lords of their courts,[25] but availed little. Any sub-tenant could get to the King's court eventually and enjoy a law which had no sympathy with lords ambitious to become 'prerogative in their own courts.' As for the King's prerogative, that only affected a limited class of people, mainly tenants in chief, and the general public was carefully protected against it.[26] And so it happened that the King alone had been able to retain for use in his court certain twists and turns in the law of landlord and tenant which worked to his financial profit at the expense of his tenants in chief. This (together with certain advantages in procedure and pleading) constituted the usual meaning of 'prerogative' in the fifteenth century.

When Starkey uses the word to denote that indefinite pre-eminence which the King ought to have, we cannot be entirely sure that he is not employing rather a figure of speech than the plain technical term which it later came to be. But in any case, there can be no doubt that he was well aware of the fact that this case involved a question of constitutional law which we would now describe as a conflict between prerogative and a representative institution.

Although this argument seems to have caused considerable questioning among the Serjeants, we are not told of any discussion of it in Court; the Year Books here as frequently report partly the private discussions among the Serjeants which took place, doubtless in their Inn, and partly the formal arguments which were addressed to the Bench. Catesby for the Crown in his reply relied partly upon the much-quoted principle of estoppel, and partly upon certain precedents, one of which is very much to the point. He recalled that once a tenth was granted with the proviso that the collectors should account before special auditors and not in the Exchequer, and

[24] It may be that the exaction of wardship by certain great ecclesiastical barons from their socage tenants is an example (and a survival) of this movement.

[25] *Magna Carta* (1215), c. 34. [26] *Ibid.* c. 43.

they did so—whence he deduces that the King ought to accept the tenth on the terms on which it is granted. But the discussion of the matter along these lines was manifestly difficult, for the Crown was relying upon the act of Convocation, and the Abbot was pleading the prerogative. The Crown was therefore put to argue against the prerogative.

The remainder of the discussion adds little to the foregoing summary of the arguments. The now familiar phrases recur with wearisome reiteration. Some new illustrative details are sometimes adduced, but the broad lines of the debate remained unaltered. Redmayn draws a sketch of the feudal hierarchy, each member of which has inherited service and duty of the tenant below, while at the apex is the King, 'who by his prerogative and royal power is our lord' and likewise the owner of his subjects' duty by inheritance. Clearly, for him prerogative is still the bundle of feudal rights which the Middle Age so characteristically regarded as incorporeal hereditaments. Then there was much discussion of the fact that the Abbot's charter mentioned taxes to be granted 'by the clergy of England,' and that neither province could be regarded as the clergy of England, for neither of the two Convocations is bound by the other's acts—*quia non convertuntur Judaei Samaritanis*. It is worth noting that one way out of the difficulty which was suggested consisted in construing the charter as though it were punctuated. Numerous adjournments prolonged the arguments, and the Barons were recommended to search their records for precedents. Finally Catesby discovered a minute flaw in the plea of the Abbot, and after further discussion of the technicalities of pleading, the report concludes with a judgment, in which all the Justices concurred, that the plea was bad; 'and so it was afterwards adjudged in the Exchequer, and the Abbot was charged with the collection for this time, but it was said that another time the Abbot will have advantage of the patent.'

Taking the case as a whole, we cannot say that it represents an advance upon the previous attempts to solve the question. Judgment indeed was given here, but upon a technical point and not upon the main question; nor can we verify the reporter's surmise that opinion was in favour of the patent. The one flash of new thought is the speech by Starkey, but it does not seem to have had much practical effect, although it is clear that it caused considerable interest.

It shows that at last thought is just about to turn into modern channels, and that someone has had the notion that this case raises questions that are outside the province of private law, and that it touches upon that pre-eminence in the King which is inevitably going to conflict sooner or later with representative institutions. In calling this attribute 'prerogative' Starkey makes it clear also that he is giving a different meaning to the word from that which had been usual in the Middle Age. The significance of this advance is all the more apparent when it is remembered that the settlement of the greatest problem of constitutional law is dependent upon a clear understanding of the nature of prerogative and of the nature of an act by the majority of a representative body. But we must not anticipate. Starkey's short remark is embedded in five large folios of the ancient learning on contract, corporation, property, estoppel, and so forth—gleanings of the court's search in almost every department of private law for guidance upon the most fundamental problem of public law.

The inconclusive character of the debate upon the principal legal point at issue in the *Abbot of Waltham's Case* doubtless was regarded as an encouraging feature by other exempted clergy, and so within two or three years the Judges in the Exchequer Chamber were again sitting upon the question. This time it is the Abbot of Shrewsbury, and the proceedings are briefly described in the condensed Latin memoranda which serve as portion of the second Year Book of Richard III.[27] The facts are summarised thus. Convocation granted the King a tenth ; the Archbishop of Canterbury certified the grant into the Exchequer ; the Exchequer issued to the Bishop of Hereford a writ ordering him to nominate a collector for his diocese, which he did and returned the name of the Abbot of Shrewsbury as collector. The Abbot now pleads an exemption granted by Edward IV in the usual terms. The first objection to it raised on the King's behalf was that the Convocation of Canterbury was not *clerus Angliae* but only a part of it, and most of the report is occupied with its discussion. Finally it was overruled after confabulation among all the Justices of both Benches and the Barons in the Exchequer Chamber. The remainder of the case is very briefly reported :

'The second question was that since the Bishop has nominated the Abbot to be collector, this nomination is so

[27] Y. B. Mich. 2 Ric. III, no. 9.

special that the King cannot pardon, etc. This is not so, because the Bishop has authority to nominate him by the King's writ ; so the authority of nominating comes from the King, and so he can exempt.

'The third question concerned the special clause in the act of grant, which said that "when a Bishop has nominated a collector and certified his name into the Exchequer, he shall not be bound to nominate another, although the nominee be exempted by the King." This does not bind the King.'

The Convocation seem to have tried another means of compelling the services of exempted clergy by releasing the Bishops from any obligation of replacing a nominee who had proved ineligible. We do not know the precise words of this clause, and so cannot surmise what reasons led the Court to decide that it did not bind the King. For one thing, the Court was clearly of the opinion that the choice of a collector was a temporal matter over which Convocation could have no control ; then there may have been some question apart from this consideration whether such an act of Convocation could bind the King—but we are told too little of the case to speak with confidence upon this point.

The report in its present state is brief, but has every appearance of being a careful abstract of the arguments, and this leads us to place emphasis with a certain amount of confidence upon a piece of negative evidence. There is no mention of those arguments based upon estoppel, contract, and the like, which made the earlier cases so remarkable. Indeed, the answer to the second question made invalid all analogies drawn from the law of property, for it regards the bishop's power of nominating collectors, not as an inheritance, but as a duty imposed by the Crown. In fact, this administrative function is now based upon agency instead of property—a striking illustration of the difference between mediæval and modern political thought. Every 'question' dealt with in our report is one of public law—the power of the Crown, the constitution of Convocation, the authority of its acts to bind the Crown, and so on. In fact this is the first of the cases we have used which deals with our problem from a definitely and exclusively modern point of view. At its lowest valuation we should have to suppose that a later hand had eliminated archaisms and contented himself with copying the arguments which seemed more to his taste.

The change may therefore appear to be more sudden and complete than it really was. But we cannot be far wrong in assuming that even if the old thought were still represented in the debate, yet the newer order was also there, and to a greater degree than in the previous cases, while it may well have been that our report is reliable in showing the complete absence of the old point of view.

This short investigation was begun in the hope of finding the best professional opinion during the fifteenth century upon some points of constitutional interest, and of seeing the problems of government as the Lancastrian and Yorkist Judges and Serjeants saw them—as annoying, difficult questions which would be much better avoided, but which circumstances finally forced to a decision. We found four cases bearing upon the same point : Parliament (or Convocation) makes a grant and someone claims the benefit of a royal patent of exemption. In the first case it was a tax, in the others it was the liability to be made collector, which was in dispute. The last three cases presented a clear-cut constitutional issue, for the grant in Convocation definitely enacted that exemptions by letters patent should not avail. And we have it universally admitted that for these purposes Parliament and Convocation are on the same footing. What then do we learn of mediæval constitutional thought ? The reports are abnormally long, and every opportunity is afforded of watching the method of dealing with the matter. First of all we learn that the question was obviously new, and secondly, that there was no body of public law, or of anything approaching it, to which the bewildered court could turn for guidance. In the earliest case the reason is obvious. Feudal doctrine was still the only doctrine upon public matters. So the question is one of property in various incorporeal hereditaments—the King gives a thing, an exemption, to *A*, and a corporation of which *A* is a member professes to give this thing (which is now *A*'s) to the King. Is the second grant valid ? Regarded from this angle the matter seems plain. But what of the burning question of estoppel ? How far, if at all, is *A* a party to the grant of the community ? Markham expounds the solution to this simple problem with great clearness—but it views Parliament as merely a gild or a municipal corporation totally devoid of governmental aspect. The next year teaches us that in spite of this clear theory of the nature of a corporation

(perhaps we should say commonalty), the personalities still get mixed. If the privileged member protests his privilege in Convocation, he can save himself from being estopped by its corporate act. Even supposing that this position is tenable upon any theory of estoppel or corporations whatever, it still leaves us with this situation : an act by a representative body which is deliberately made and intended to override a separate arrangement between one of its members and the Crown, will only bind that member if he allows it to pass without protesting his exemption. This result is achieved without any considerations of a constitutional nature ; it follows from a particular application of the doctrine of estoppel. This is the best that the Year Books of the Lancastrian age have given us in the way of political theory.

Our third case brings us late into the reign of the first Yorkist, and here we find unexpected glimmerings of modern light. Amid the same old learning stand the words of Starkey: which is higher, the authority and jurisdiction of Convocation, or the King in his prerogative ? We firmly believe that this question shows an immense stride forward ; where the Lancastrians blindly groped in a wilderness of private law, Edward IV's Serjeant is able to drag into the light of day the fundamental question at the basis of these and countless other cases as well. It matters little to our argument whether Starkey answered in favour of the King or of Convocation ; the essential point is that the question was asked at all. It is a nearer approach to constitutional government for Starkey to say that the prerogative is above Convocation, than it is to be ignorant of the very existence of the problem when it is staring one in the face. There is at least something there to dispute, and not mere darkness.

Some day the many fascinating problems of the fifteenth century will receive the attention they deserve, and then the study of the Year Books will be a very considerable factor in forming a final opinion of the age. Many subjects await investigation, and this study will have succeeded if it has shown the value of the material which lies concealed beneath their repellent print and language. Much will have to be done before a confident judgment can be given, but it does seem that the uneasy feeling which has long been felt about the ' constitutionalism ' of the Lancastrians is thoroughly justified. Beneath the strange modernity of its appearance there lies

a fundamental deficiency which makes it peculiarly difficult to understand, and we think that this is due, in some measure at least, to the fact that however familiar the forms of Lancastrian government may seem, the spirit within them is completely alien to modern thought. Starkey's speech is a fair test: these discussions in the Exchequer Chamber have always engaged the attention of the best lawyers of the day in England, and if the cases we have discussed could be argued for days at a time without a single Judge or Serjeant asking which is higher, the King in his prerogative, or an assembly such as Parliament or Convocation, then the word 'constitutionalism' is hardly appropriate. When government has ceased to be regarded as private property, when the King's patent and an act of a representative body are no longer put side by side and treated as two private deeds, and when the principle of estoppel is not allowed to conflict with the majority rule—only then can we begin to speak of political thought and a constitution in the modern, non-feudal sense. These things were not accomplished by the Lancastrians, but the Yorkists saw their first beginnings.

Theodore F. T. Plucknett.

THE DESTRUCTION OF SANCTUARY

In 1536 it was set forth in the preamble to an Act of Parliament that 'upon trust of saintuaries and the licencious liberties that heretofore have ben and yet dailye ben used in the same, divers personnes have ben the more bolde to perpetrate and committe many detestable murders rappes robberies theftes and other mischevous detestable and abbomynable dedes, for that they have ben alwayes releved ayded and succoured by the saintuaries when so ever and so ofte as they or any of theym have offended.'[1] Thus did Parliamentary draughtsmen speak of a hoary privilege, and secular men were in general agreement with them. Many had been the attacks upon it ; but the mediæval Church knew how to defend her own, and it was not until the bonds of Rome were broken that the widespread and acknowledged abuses of sanctuary could be brought under due control.

This was the more difficult because the privilege was twofold, its ecclesiastical aspect being in many cases merely an outward show to conceal and protect its true nature. Every parish church and churchyard could, of course, give a sanctuary to criminals, purely religious and more ancient and widespread than Christianity. The man who fled thither could not be taken out without the penalty of excommunication being incurred by the violator ; but the privilege had always been, and remained, temporary, and was exercised in accordance with well-defined rules. When a man fled thither, the men of the four neighbouring vills were bound to guard the church and churchyard and were liable to a fine to the King if he escaped. He might remain in his refuge for forty days, supplied with food by his friends without or by the clergy of the church ; and during that time he could send for the coroner, confess his crime before him, and abjure the realm, when he would be sent from constable to constable to the port assigned

[1] 27 Henry VIII, c. 19.

to him, to cross the seas never to return. If, however, he refused to send for the coroner and abjure the realm, he could at the end of the forty days of protection be starved out, or taken from the church and brought to justice. Such was the theory and practice of the law.[2] The privilege did not cover those guilty of sacrilege or high treason, and though by it many murderers and felons doubtless escaped due punishment, it could not produce the great evils which in the fifteenth and early sixteenth centuries are the subject of such bitter complaint.

These evils arose from a second type of sanctuary, the true nature of which has not been generally recognised. There were some places which, unlike ordinary parish churches, could give permanent protection to criminals fleeing to them. This right originated in a royal grant—it has been said, in a grant of the right of perpetual sanctuary in express terms. It would be out of place here to discuss the mixture of law and custom, grant and prescription, forgery and usurpation, upon which in particular cases it rested. But its basis was no sanctuary-charter in express words, but an independence of royal justice.[3] Into the area of that independence the criminal fled as into a foreign land ;[4] and the lord's law which he had not broken would take him as its subject and protect him from the pursuing officers of the law which he had broken, be it the law of another lord or of the King himself. Hence not only the great palatine earldoms of Durham, Chester, and Lancaster were sanctuaries, but every franchise where the lord had *iura regalia* and the King's writ did not run.

The privilege was thus purely secular and jurisdictional ;[5] but long before the Tudor period opened, circumstances had

[2] On ecclesiastical sanctuary see Cox, *Sanctuaries and Sanctuary Seekers*, and Trenholme in vol. i. of *University of Missouri Studies*.

[3] See R. H. Forster in *Journ. Brit. Arch. Assoc.*, 1905 ; *cf.* Page, 'Remarks on the Northumbrian Palatinates,' *Arch.* li. On Hexham, *History of Northumberland*, vol. iii. *Hexhamshire* (A. B. Hinds), pp. 20 *et seqq.*

[4] *Northumberland Assize Rolls* (Surtees Soc.), p. 343. *Cf.* Coke, III *Institute*, c. 84. In 1461 the Great Chronicle of London records the intended flight of certain aldermen to Antwerp, 'there to have lyvid as seyntuary men.' I am enabled to make this and a later reference to the Great Chronicle by the kindness of Mr. E. H. Dring.

[5] It was not at first necessary to do more than cross the borders of a liberty ; *cf. Northumberland Assize Rolls*, pp. 343, 345. The custom of going to the central church of the ecclesiastical liberties and there claiming the protection as though it were ecclesiastical, probably arose only in the fifteenth century, when the power of the liberties as such was threatened. *Cf. infra*, p. 202.

given it a false ecclesiastical colour. Henry II broke the power of the secular lords of liberties and laid their lands open to the visits of his justices ; but the murder of Becket and his subsequent relations with the Church made it impossible for him to touch those owned by ecclesiastics. Thus while protective jurisdictions in the hands of laymen slowly dwindled and disappeared, save in special cases, those held by bishops and abbots were left in their integrity. Thither fled the traitor and the murderer, the thief and the debtor, and there they dwelt secure from the King's justice or their victims' vengeance. They took a new oath of allegiance [6] and obeyed a new sovereign and a new law, which would protect them against any other ; only if they offended against these, had they anything to fear, when they must flee to yet another law and sovereign, or abide the penalties of their lord's justice.[7]

History and geography combined to preserve these protective independent jurisdictions in the greatest numbers in the north and west of England. The south had Westminster and St. Martin le Grand, Glastonbury and Beaulieu, Colchester and Culham, and a handful more ; but they were small and scattered islets in the sea of the King's law. North of the Trent, however, there were wide tracts where the King's writ did not run and the royal sheriff and justice could not enter:[8] the whole county palatine of Durham with its members, Norhamshire, Islandshire and Bedlingtonshire in Northumberland, Allertonshire and Howdenshire in Yorkshire ; the Archbishop of York's great liberties of St. Peter's, Beverley, Ripon and Hexhamshire—the last some ninety square miles in extent ; the liberties of the Prior of Tynemouth, and of the Abbot of St. Mary's of York there and at Wetheral ; and the great lay franchises of Tynedale and Redesdale on the Border. Westwards, Lancashire and Cheshire were counties palatine, and though both had fallen to the Crown long before the Tudor

[6] The Oaths of Beverley, Westminster and Wetheral are known, though only the essential substance of the last is preserved. *Sanctuarium Dunelmense et Beverlacense* (Surtees Soc.), p. 111 ; Cox, *op. cit.*, pp. 139–40. H. F. Westlake, *Westminster* (Historic Towns), p. 12 ; *Register of the Priory of Wetheral*, ed. J. E. Prescott, p. 429.

[7] Cases of Beverley and Ripon men fleeing to Durham, *Sanct. D. et B.*, pp. 9, 25, 32, 39, 85, 87, 88 ; of Durham men fleeing to Beverley, *ib.*, p. 185, and R. H. Forster's article *ut supra*, pp. 135–6. Ordinary ecclesiastical sanctuary could, of course, be claimed ; at Durham, *Sanct. D. et B.*, p. 30 ; at Hexham, *Northumberland Assize Rolls*, pp. 38, 86. On fleeing from liberty to liberty in Wales, 27 Henry VIII, c. 26.

[8] *Cf.* Reid, *The King's Council in the North*, pp. 12–14, and map showing districts where the King's writ did not run.

period, the law of the king as king did not thereby supersede his law as duke and earl, or the protection which that law could give. Similarly in the lordships Marcher of Wales the King's writ did not run, and the liberties protected criminals against his justice and against one another.[9]

This state of things still endured almost unimpaired at the accession of the first Tudor—and indeed at that of his son, whose work it was to deal a mortal blow at these obstructions to royal authority and to level liberties to make a foundation for liberty. But more than two centuries earlier the intolerable nuisance which arose from them caused local arrangements in some cases, whereby neighbour could bring neighbour to justice, the protection of liberties notwithstanding. By the time of Edward I, if a man of Northumberland fled into Norham, the sheriff might replevy him on the suit of any man of the shire, and the Bishop of Durham's bailiff would bring him 'ad marchiam videlicet inter corpus comitatis et libertatem de Norham in quodam loco qui vocatur Holdenburne,' there to abide the law. Similarly the bailiff could replevy for trial in the march a Norham man who fled into the open shire.[10] But this only applied to the inhabitants of the locality in suits between themselves ; the Norham and Northumberland men were concerned to prevent their neighbours from robbing or murdering them with impunity, but they had no concern with the crime of, say, a Londoner who fled to the liberty of the Bishop for protection—rather, if he were an able man of war, he would be welcome.

As the King's power increased and the reach of the arm of royal justice lengthened and its efficiency strengthened, it was inevitable that conflict must occur with these independent jurisdictions ; and royal authority was the less able to tolerate them, because of the abuses to which their independence gave rise. ' The grievous clamour and complaint ' made to Henry IV 'of many murders, manslaughters, robberies, batteries, and other riots and offences . . . done by the people of the county of Chester to divers of the King's liege people in divers counties of England,' was no isolated instance. The true inhabitants of the liberties, as well as the fugitives to them, were

[9] 26 Henry VIII, c. 5, and c. 6, § 11 ; 27 Henry VIII, c. 26.

[10] *Placita de Quo Warranto* (Record Comm.), p. 604*b*. The protection, being jurisdictional, of course worked both ways. *Cf.* Lapsley, *County Palatine of Durham*, pp. 226–7, 231, 252. On Tynedale, *Rot. Parl.*, I, 294*a*.

always ready for a profitable raid into the foreign lands beyond their borders. The complaints against Tynedale, Redesdale[11] and Hexham in 1414[12] and 1421,[13] speak for themselves. In 1455, under cover of the disorder caused by the outbreak of civil war, the sanctuary men of St. Martin le Grand in London raided the City, and in 1456 repeated the offence, under colour of taking part in the riots against alien merchants.[14] In 1487, upon the false news that Henry VII had been defeated by the rebels, the Westminster sanctuary men mustered in a body to rob the houses of those whom they knew to be with the King in the field ;[15] and in 1531 the grithmen of Ripon were used by the organisers of a riot.[16] Nor was the Countess of Shrewsbury doing any unusual thing when she hired a Westminster fugitive to take a party and waylay and murder Lord Berkeley.[17] Such proceedings made the liberties and their inmates exceedingly unpopular, for ' no one could have law or reason of them.'[18] The words put into the mouth of the Duke of Buckingham in 1483 no doubt represent fairly the opinion of all sensible laymen regarding the privilege and its abuse.[19]

It needed a Henry VIII to deal effectively with an entrenched privilege of this description ; but here as elsewhere the fifteenth century is the parent of the sixteenth, and the abuse was being slowly curtailed before his time. As early as 1377[20] an Act gave creditors execution of assets of which men had made collusory gifts to their friends before fleeing to sanctuary. After the famous violation of Westminster's sanctuary in 1378, the whole matter of the privilege was raised in Parliament, and twice the learned in both laws declared that there neither was nor ought to be any immunity in cases of debt or trespass where life and limb were not endangered.[21] The legal committee which inspected the Abbey's charters

[11] In 1292 the lord of Redesdale denied claiming or using the right to receive felons there ; *Northumberland Assize Rolls*, pp. 372–4.

[12] *Rot. Parl.*, IV, 21*a*. *Cf. ibid.* III, 201*a*. [13] *Ibid.* 143*a*.

[14] Kempe, *St. Martin-le-Grand*, p. 146.

[15] *Cal. S. P., Venice*, I, no. 519.

[16] *Yorks. Star Chamber Proc.*, II, pp. 48 *et seqq*.

[17] *Chancery Proceedings in the Reign of Elizabeth* (Record Comm.), I, p. lxxvii ; temp. Edward IV.

[18] *Christ Church Letters* (Camden Soc.), p. 48.

[19] Sir Thomas More's *History of Richard III*, ed. Lumby, pp. 28 *et seqq*. All the points made there recur in a treatise on sanctuary, *infra*, n. 67.

[20] 50 Edward III, c. 6. *Cf.* Constitutions of Clarendon, art. 14.

[21] *Cf.* Brook, *Graund Abridgement*, tit. Sanctuary, nos. 6, 11.

pronounced against a grant in general words being supposed to confer it, and it was clearly the wish of Parliament to destroy it entirely in such cases.[22] But the influence of the Church was too strong, and the only result was an Act confirming and amplifying that of 1377.[23]

In 1394 the matter was again before Parliament, when the commons of Essex petitioned that the Abbot of St. John's, Colchester, and the Abbot of Abingdon at Culham, had lately begun to use a liberty unknown to their predecessors, of protecting fugitives for debt, trespass and all other personal actions, 'as the Church of Westminster does.' It was answered that the Abbots should show their privileges before the Council, which by authority of Parliament would ordain a suitable remedy ; but no more is heard of the matter.[24]

The Commons petitioned Henry IV for a reduction of the privilege in London,[25] but in view of his dependence on the ecclesiastical interest they were naturally unsuccessful. His reign saw, however, some abridgement of the abuse where the King himself was concerned, when men leaving Cheshire to commit crimes and returning to it for protection were made amenable to the common law[26]—a rule extended in 1414[27] and 1421[28] to the liberties of the North. But mediæval legislation was always in the nature of a manifesto of policy, or the enunciation of a wholesome principle, to which practice should but frequently did not conform. That fraudulent debtors were supported and encouraged in their evil ways, was still in the forefront of the complaints against sanctuary in the late fifteenth and early sixteenth centuries ;[29] and if, as is doubtful, any attempts were made to enforce the Acts of 1399, 1414, and 1421, the offenders could always evade them by flight to another franchise.

The effort, however, is significant ; and by this time also there had begun that long struggle between the City of London and the sanctuary of St. Martin le Grand, which seems to epitomise in itself the story of the decline and death of the

[22] *Rot. Parl.*, III, 37, 50–51.

[23] 2 Richard II, stat. 2, c. 3 ; 1379. Two cases under it are recorded on the Parliament rolls. *Rot. Parl.*, IV, 39–40 (1414) ; *ibid.* VI, 110 (1474). A third case occurred in 1486 : Y. B. 1 Henry VII, Hil. pl. 13.

[24] *Rot. Parl.*, III, 321*b*. [25] *Ibid.* III, 503–4. [26] 1 Henry IV, c. 18.

[27] 2 Henry V, st. 1, c. 5 ; *Rot. Parl.*, IV, 21. [28] 9 Henry V, st. 1, c. 7.

[29] Buckingham's speech, *supra*, n. 19 ; Longleat MS., *infra*, n. 67 ; Keilwey, *Reports*, f. 190*b*.

privilege. Long before the royal power could dare to assert itself as the sole dispenser of high justice, the Londoners had awakened to civic consciousness and were crying with no uncertain voice against the independent authority in their midst. As early as 1313, the mayor and sheriffs were sharply rebuked for taking cognisance of trespasses committed in the liberty,[30] and in 1314[31] they tried to collect a tallage there. But it was in matters of debt and personal actions that the growing commercial community felt the disadvantage of such places most keenly. The Act of 1377, which specially mentions Westminster and St. Martin's, may have been engineered by the Londoners; and they must have taken a breathless interest in the proceedings against the former in 1378, when the lords and judges showed that they shared the opinion of the City. In 1402 the Londoners thought they saw an opportunity in the King's weakness, and preferred a long petition in Parliament[32] against St. Martin's, embodying their perennial complaints: apprentices and servants flee there with their masters' goods, to live at their will without punishment; merchants' debtors remove there with all their possessions and so escape payment; obligations, indentures and acquittances are forged there in the names of merchants and others of the City, to their disherison and destruction; victuals and merchandise of all kinds are ordered by the inhabitants, who, when they have received the goods, refuse to pay. That traitors, murderers and thieves are harboured there, and at night break out to renew their crimes, clearly comes second in the Londoners' minds, as in their petition, to these commercial grievances; and they ask that the franchises may be overridden and all such offences dealt with by the temporal judges of the City. Henry IV answered, 'Let them show their privileges before the King's Council, and reasonable remedy shall be made': but he dared not forfeit ecclesiastical support, and matters went on as before.

In 1419 an irate merchant was once more vainly seeking the help of the law against a fugitive servant who had robbed him;[33]

[30] B.M. Lans. MS. 170, f. 59*b*. This MS. is a contemporary copy of the sixteenth-century *Liber Fleetwood* among the MSS. of the Corporation of London at the Guildhall, itself a copy of the late fifteenth-century cartulary of St. Martin's in the archives of Westminster Abbey.

[31] *Ibid.* f. 60.

[32] *Rot. Parl.*, III, 503–4.

[33] Lans. MS. 170, ff. 102–3. The King's number is there omitted, but the *Liber Fleetwood* supplies it.

and in 1423, 1424 and 1428 St. Martin's was still protecting debtors.[34] The City fathers were ripe for a new explosion of wrath ; and since neither King nor law would help them, they now boldly adopted the attitude that the privilege was but a ' pretensed ' one, grown up of late years in a place properly within their own liberty and jurisdiction. Accordingly when in 1430 two apostate canons of Waltham sought sanctuary at St. Martin's, and the usual writ was issued for their arrest if found in the City, the mayor, sheriffs and four sergeants, acting on this new assumption, removed them by force to prison.[35] The dean's counterstroke was a petition to the King to appoint a commission to enquire into all errors, defaults and misprisions done in London for default of good rule by the city officers, under an Act of Parliament of 1354 confirmed in 1399.[36] A committee was accordingly appointed to hear and decide on the claims which each side made in the matter, and report thereon to the King and Council ; and an interim writ ordered the victims' restoration to sanctuary—an order which was not obeyed. In due course the City laid its justification before the commission, proving that St. Martin's was of and in the liberty of the City and under the City officials' jurisdiction, and boldly including the case in dispute among the precedents on their behalf. The dean's claim to have sanctuary by certain charters was traversed by the statement that the general words of William I's grant could not derogate from the special liberties and jurisdictions previously granted to the City, while that of Henry III was obtained when the citizens had long possessed those special rights, and therefore could not prejudice them. The lords of the Council thereupon reported to the King that the place was not privileged, and the canons were handed over to their abbot.[37] For the moment the City had triumphed ; but its triumph was short-lived, for in 1434 the Court of Chancery restored to the sanctuary a debtor who had been arrested there and removed to prison by the sheriff on the application of his chief creditor.[38] So in 1440 the City had perforce to fight its battle over again,

[34] Lans. MS. 170, ff. 80*b*–82.

[35] *Cal. Letter Book K.* (*Rec. Corp. London*), ed. Sharpe (henceforth cited as *Cal. K.*), pp. 106–7, 151–60 ; Lans. MS. 170, ff. 78*b*–79*b*. Apparently a regular campaign of encroachment was begun, for the Dean's petition speaks of many entries and distraints since.

[36] 28 Edward III, c. 10, confirmed by 1 Henry IV, c. 15.

[37] See *Cal. K.*, p. 107 n.

[38] Lans. MS. 170, f. 82.

on the occasion of the rescue of a soldier named Knight by four sanctuary men, as he was being taken from Newgate to the Guildhall for his trial.[39] The sheriffs for the year, Philip Malpas and Robert Marshall, had already been active in violating other liberties within the City and were more than willing to return to the assault upon the greatest of them.[40] After a little hesitation all five men were taken out and committed to Newgate, 'all naked save theire lynnen clothes, two togeders cheyned by the neckes and manacled as traytors,' as the canons informed their absent dean in a letter which brought him post-haste from Cambridge. Failing to get restitution from the sheriffs, and only receiving from the Mayor and Aldermen a cool offer to hear his complaint in five days' time, Dean Caudray went to the King at Windsor and set forth the wrongs of his church. Henry, mindful of the City's raids on other franchises during the year and of the inefficiency of his own past efforts to prevent them,[41] was thoroughly roused, and sent the City an angry letter ordering the prisoners' restoration, backed by a writ to the same effect. These were delivered to the Mayor, Sheriffs and Aldermen at the Tower by its constable, Lord Huntingdon, with 'great exhortations of obeissance.' To gain time the City fathers said that they dare not even open the letter in the Tower, which was a privileged place and outside their jurisdiction; and that moreover most of the aldermen were not present, and must be sent for before a document so addressed to them all could be dealt with. The baffled Huntingdon was obliged to allow them to retire to the Church of All Hallows Barking, within their own liberties, whence, having opened the writ, they sent to him for twenty-four hours' delay in their answer. Next day, attended 'with great counsaile,' they gave him many reasons why they might not obey the royal command, and told him that they would themselves wait upon the King with their answer. So a committee was appointed to excuse the sheriffs to Henry, and at the same time a decision which Dean Caudray had already suspected was recorded, that the proceedings against the sanctuary should be defended at the

[39] Lans. MS. 170, ff. 83–97; *Rec. Corp. London, Journals of the Court of Common Council* (henceforth cited as *Journ.*), III, ff. 55*b*–66*b*; *Cal. K.*, pp. 241–6; Kempe, *op. cit.*, prints some of the documents. *Cf.* Stow's *Survey of London*, ed. Kingsford, I, pp. 307–8.

[40] They had broken the franchises of Blankchapelton, St. Katherine's and St. Bartholomew's in Smithfield. Lans. MS. 170, f. 83.

[41] *Ibid.* f. 84*b*.

cost of the City.[42] Henry was too much displeased to receive the envoys, nor did he accept their excuses or their final offer to restore the prisoners to St. Martin's if he would command it ;[43] he merely sent them word that 'at the next comminge togethers of the lordes of his blood and great counsaile this matter should be communed of and weighed, and after as thei had done, so shuld thei have'—information which sent them home 'right heavy.'[44]

Accordingly in Michaelmas term the matter came up in the Star Chamber, and each side put in lengthy proofs of its case, the dean insisting that St. Martin's was a sanctuary with power to protect fugitives for debt and trespass, the City declaring that the place was and always had been under their jurisdiction and had no such franchise. The two Chief Justices, however, advising the Council in the law, laid it down that William I's charter in general words, supported by immemorial usage and allowance in eyre, was sufficient warrant for the exercise of the privilege ;[45] and thereupon the King ordered the Chancellor and Treasurer to ordain the restoration of the prisoners, and by the Council's advice to punish the sheriffs for their disobedience to his letters and contempt of his writ. Whether any punishment was imposed is not known ; but Dean Caudray, in declaring his goodwill to the City and promising to make due correction of evildoers in St. Martin's, prayed that he might cause no offence by prosecuting the sheriffs for this matter.[46] The five men were restored[47] and the dean took care to have the record of so notable a victory exemplified by Letters Patent.

By the irony of fate, the King himself was ten years later to be rebuffed by the privileges he had defended. After Cade's rebellion his sword-bearer, William Cayme of Sittingbourne, fled to St. Martin's, and Henry by signet letters ordered his deliverance to yeoman of the Crown to be conveyed to the royal presence 'for matters concerning our person.' The dean hastily visited the King with his bulls and charters, and the Council after long deliberation answered that nothing

[42] *Journ.*, III, f. 59 ; Lans. MS. 170, f. 84.

[43] *Liber Fleetwood*, f. 146*b*, here supplies a paragraph omitted by Lans. MS. 170.

[44] Lans. MS. 170, f. 86*b*.

[45] They pointed out that the privileges of Beverley, Durham, Glastonbury and Westminster 'stand in general words more than in special' ; *ibid.* f. 95*b*. Judicial opinion on this point altered later. *Cf. infra*, p. 199.

[46] *Journ.*, III, f. 65*b*.

[47] *Ibid.* f. 65 ; Lans. MS., f. 96.

should be done in derogation of the franchises.[48] But in the following autumn the attempt was repeated in the case of Sir William Oldhall, the Duke of York's Chamberlain ; and though the King, in defiance of the attacks made on the privilege in his name and by his Council, expressly approved it, this did not save Oldhall from being violently removed. Henry at once commanded his restoration, but this was only gained after yet another examination of the privileges, the third in twelve months, and a declaration by a legal committee that they were sufficient to protect fugitives for all causes civil and criminal. Even then, royal officers were set to keep strict guard over Oldhall in the sanctuary, and it required further efforts by the dean to get them withdrawn. And again, to perpetuate the memory of a hardly-won victory, the dean had the record of it enshrined in a public instrument.[49]

It is possible that this persistent though unsuccessful attack on the privilege was really the work of the Duke of Somerset. He was present at the meeting of the Council which debated Cayme's case, and he was noted as specially violent against the sanctuary when Oldhall's case was being discussed.[50] On May 20, 1455, during his final period of power, a Privy Seal warrant for Letters Patent was issued, which, while it declares, in conformity with the earlier decisions of the Council, that St. Martin's was no part of the City and that City officials could not arrest fugitives there, goes on to order that those who, not observing statutes or good customs, go out and commit further crimes, shall, if convicted before the dean or his officers, be by them lawfully expelled from the sanctuary, if necessary by the aid of the secular arm.[51] Two days later Somerset was killed at St. Albans, and apparently the Letters Patent were never made.

Soon after, the City removed from sanctuary the leaders of the raiding, rioting grithmen, and a royal letter ordering their restoration was answered only by the visit of a deputation to explain that the matter required ' good and sadde direccion.' Again the Star Chamber was ordered to examine and decide the matter, with what result is not known. But the tone of the King's second letter[52] is significant of the altered political

[48] Lans. MS. 170, f. 104*b* ; the King's letter is dated February 16, 1451. (All dates are given in new style.)

[49] *Ibid.* ff. 107–8.

[50] *Ibid.* ff. 104*b*, 107*b*.

[51] *Ibid.* f. 106*b*.

[52] *Cal. K.*, pp. 370–1.

circumstances. No longer are the Londoners rated for their disobedience : instead they are heartily thanked for the zeal they have displayed, assured that they shall have all their liberties, and allowed to keep their prisoners pending the Star Chamber's verdict. To ensure that verdict being in their favour, they briefed leading counsel of the day for their defence.[53]

But before this the City, baffled in its efforts to destroy St. Martin's protection of offenders, had found a new point of attack. The citizens had other burning grievances in the exemption of the craftsmen within the liberty from the supervision of the wardens of the guilds, and the inhabitants' freedom from all taxation imposed or collected by the City. The independence of the liberty enabled aliens, who could not be burgesses, to carry on crafts or retail trade from which they were otherwise debarred ; and the freedom of their workshops from search encouraged the production of inferior wares, and particularly the counterfeit plate and jewellery for which even in the seventeenth century St. Martin's was notorious.[54] In 1448 the Wardens of the Goldsmiths' Company, supported by the sheriffs, attempted to carry out a search by their own authority, but they were speedily joined by Dean Caudray, who took care himself to order the breaking of defective wares and consigned the offenders to his prison. His severity was all that the goldsmiths could desire, and they afterwards drank with him, 'and right friendly thanked him.' But they were not to be put off thus, and soon afterwards complained to the King of the lack of supervision of their craft in the liberty, asking that their wardens might be given powers of search there. Henry VI, however, had little sympathy with them, and the only result was an order to the dean to 'do due search to be made.'[55] Similarly Edward IV in 1478 exempted St. Martin's from the wardens' operations ;[56] and this freedom, and the defiance by alien non-burgesses of the commercial laws of the City, continued to be a serious grievance for generations to come.[57]

[53] *Journ.*, V, f. 266. *Cf. ibid.* f. 263*b*, the City's effort to make interest with the Archbishop of Canterbury and the Earl of Salisbury.

[54] Butler's *Hudibras* ; *cf.* Stow, *Survey*, ed. Kingsford, ii. p. 343.

[55] Lans. MS. 170, f. 104.

[56] 17 Edward IV, c. 1.

[57] The City fought St. Martin's to the last on the questions of sanctuary and of alien craftsmen : 1529, Act of 21 Henry VIII, c. 16 ; boundary commissions, *Journ.*, XIII, f. 194 and beginning of XVI (February 14), and XIII, f. 186*b*

In the matter of taxation, the City had declared, when presenting its case in 1430 and 1440, that the inhabitants of the franchise whose shops or houses opened upon the highways of the City were liable to all contributions, distraints and other burdens borne by citizens ;[58] and the sheriffs proceeded to put this assertion into practice in the only part of the liberty where it applied—St. Martin's Lane.[59] This had been an open highway until Edward I, hearing that it was a resort of bad characters, allowed the dean to close it ;[60] and the City, barred by the Council's decisions from the precinct, now resolved to maintain that the Lane was no part of it. So in 1451 an imposition levied by the mayor and aldermen for the pay of the garrison of Calais was demanded from the inhabitants of the Lane, and refusal to pay on the ground of privilege was answered by distraint. When Dean Caudray complained, the mayor and aldermen, 'after communication had amonges them,' asserted that the alderman in question, Matthew Philip of Aldersgate Ward, had only done his duty, since the Lane was 'out of the procinct and no seintuarie, and that thei would all prove and stand by.' The Dean, 'to buy his peace,' offered to pay the tax for his tenants if the goods were first restored, although to do so was against his charters and privileges ; but the City wished to establish a precedent, and his offer was refused. The Dean then transferred his complaint to the King, who 'greatly tendered the matter,' and sent by his own servants a writ reciting the exemption of St. Martin's and the Lane from taxation, and ordering Alderman Philip to restore the goods. That worthy, however, 'said he might not obey because all the Citee had made them parties to defende the matter ayeinst the deen'; but when a second writ was served upon him, the Corporation decided on the wisdom of obedience, and the goods were returned next day.[61] Alderman Philip, if he had proved him-

(November 17) ; evidence before first, XIII, ff. 195–196*b*. P. R. O. Star Chamber Proceedings, 29/198. 1533–4, *Journ.*, XIII, ff. 410*b*–413*b*, 420*b*–421. 1535, *ibid.* ff. 453, 467–8*b*. 1538, *ibid.* XIV, 90–91 ; *cf. ibid.* 78 and 60*b*, 75, 75*b*, 89*b* (St. Mary Graces). 1593, D'Ewes, *Journals*, pp. 505–9.

[58] 1430, *Cal. K.*, p. 160 ; 1440, Lans. MS. 170, f. 94*b*.

[59] The Lane ran through St. Martin's property ; see plan at end of vol. ii. of Stow's *Survey of London*, ed. Kingsford, and evidence before boundary commission, *Journ.*, XIII, ff. 195–6. Most of the other boundaries were walls dividing St. Martin's property from that of other landlords.

[60] Lans. MS. 170, f. 91*b*.

[61] *Ibid.* ff. 105–6 ; the writ is dated October 15, 1451.

self a determined opponent, seems nevertheless to have been a handsome loser, and he later offered the dean a reconciliatory dinner at which the latter, not to be outdone, handed over his reserve weapons in the case, a third writ and a signet letter.[62]

But the City was not easily beaten on this point, and is found returning to the attack in 1455. Again the Corporation declared St. Martin's Lane to be within the liberties of the City and ordered that aliens living there should be distrained for payment of the King's subsidy of aliens ;[63] again royal writs were issued and disregarded,[64] the more safely since the first battle of St. Albans had just been fought and neither side could afford to offend the Londoners. The controversy was still unsettled in November 1459, when the late sheriffs, the present sheriffs, and the undaunted Alderman Philip were all ordered by writ to restore goods which they had distrained for non-payment of a subsidy of aliens ;[65] while the Common Council for its part determined that the parties should be saved harmless for their action, re-asserting that St. Martin's Lane was within the liberties of the City.[66]

The efforts of the Londoners cannot on the whole be described as anything but a failure, nor did more success attend those made about this time for the better control of the lawless sanctuary men. Their riotous conduct in 1455 and 1456 could not be ignored, and the City urged on the movement which resulted in the ordinances made by the Council for their good rule.[67] On November 29, 1457, these were read in Common Council and pronounced very pleasing to the City ;[68]

[62] Lans. MS. 170, f. 106, printed by Kempe, pp. 115–16. Philip, however, was present at Oldhall's removal in the following January ; *ibid.* f. 107*b*.

[63] *Journ.*, V, f. 242 ; May 13, 1455.

[64] A writ *pluries*, dated June 12, 1455, is sewn to f. 67*b* of the cartulary of St. Martin's at Westminster.

[65] Lans. MS. 170, ff. 117–18.

[66] *Journ.*, VI, f. 169.

[67] *Cal. K.*, p. 392 ; Kempe, *op. cit.*, pp. 146–51. They aim at no more than enforcing existing law and custom ; *e.g.*, with no. 3, *cf.* Lans. MS. 170, f. 104*b*, Cayme's imprisonment. No. 1 orders registration, which was the practice by 1451 ; *ibid.* f. 107, Oldhall. Only the Durham and Beverley registers survive ; but the practice was also known at Beaulieu (*Chron. of London.* ed. Kingsford, p. 218) and Westminster ; Great Chronicle of London, Queen Elizabeth in 1470 'registered her and such as to her belonged as sanctuary folks.' The so-called 'register' of Westminster (*Arch.* XVII, 200), now at Longleat, is a scholastic treatise setting forth the arguments for and against sanctuary. I have been enabled to examine it by the kindness of the Marquis of Bath.

[68] *Journ.*, VI, f. 186. The ordinances were apparently accompanied by some structural alterations in the Lane ; *ibid.*

and many and cordial thanks were offered to God and the King, while the Dean of St. Severins and Thomas Kent, clerk of the King's Council, were handsomely rewarded for their 'great and fruitful labours for the good of the City' in the matter.[69] But, as usual, the ordinances represented rather an ideal to be striven for than any accomplishment of improvement, and the ill-doings against which they provided—issue to commit fresh crimes, the bringing in of stolen goods, forgery of documents and false goldsmiths' work—if they were momentarily checked, soon resumed the even tenor of their way. The first especially seems to have been almost impossible of prevention, and in October 1460 the Pope, *motu proprio*, issued a mandate for inquiry and reform on this point, if the consent of the King could be obtained.[70] The change of dynasty, however, probably prevented action being taken; and in any case the close of the Yorkist period found all the old complaints being voiced as strongly as before.[71] Edward IV had certainly made some attempt to check the prevalence of crime amongst the sanctuary men at Westminster, ordering the Archdeacon 'sharply to punishe' offenders, and in case of resistance to 'do us to be certifyed of his name and demeanyng, and we shal see to his grevouse correccion in that behalve.'[72] But the Yorkists, though they might adumbrate Tudor policies, lacked Tudor driving force, nor was the Abbot of Westminster likely to invoke royal interference with his rights in this fashion. Parliament also in this reign presented the King with a Bill to deal with crimes committed by sanctuary men outside their boundaries, but Edward rejected it, probably realising that its methods would be ineffective.[73] Still, it showed the Commons' attitude to the privilege, an attitude of which the Tudors would know how to take advantage, and which reappeared in the advice given in Henry VII's first Parliament to the Abbot of Westminster. He was contesting a case under the Act of 1379 on the ground of his privileges; and he was told by the lords spiritual and the judges that he had acted unwisely

[69] *Journ.*, VI, f. 185.

[70] *Cal. Papal Registers*, XI, 580. A previous mandate, with special mention of Westminster, St. Martin's and Culham, and professedly issued on the King's petition, was sent in 1442; *ibid.* IX, 282.

[71] *Cf.* Buckingham's speech, *supra*, n. 19.

[72] Westminster Abbey Muniments, no. 9612. I am much indebted to the Rev. H. F. Westlake for giving me access to the Abbey archives.

[73] P. R. O. Parliament and Council, 40/10. I owe this reference to the kindness of Mr. C. H. Williams.

in causing them to be argued, and would do better to see that they were well and duly kept, and to allow those who used them as a shelter for wrongdoing to be corrected.[74]

But the most successful campaign against sanctuary before the break with Rome was that carried on by the judges. They could succeed where others failed, because they were possessed of strong traditions and a living record in year books and plea rolls of their own and their predecessors' decisions. They were well used to making new law in the process of administering the old, and they encroached upon sanctuary by rigid definition of the circumstances in which it might be claimed. As early as 1399 they issued a manifesto against the erection of new sanctuaries by declaring that the King could not grant away the royal prerogative of pardoning felony ; though they admitted that those who, like the Abbots of Glastonbury and Battle, had such power by prescription supported by allowance in eyre, could lawfully exercise it.[75] By careful inquiry into the legal warrant of the right when cases came before them, a legal basis was elaborated without which they would not recognise it as valid. The result of these labours of definition was that by the time of Henry VIII no sanctuary could be maintained in law, unless its owner could show a royal grant as the basis of the privilege, supported by usage and by allowance in general eyre. Neither charter without allowance, nor usage without charter, nor allowance in other courts, was of any avail. A papal bull was not only worthless as a warrant, but to plead or use it put a man in danger of premunire ; for the land and the people were the King's, and to him alone belonged the pardon or punishment of their crimes.[76] Thus

[74] Y. B. 1 Henry VII, Hil. pl. 11 (edn. 1679). It is possible that the Longleat MS. (*supra*, n. 67), which deals at great length with sanctuary for debt, was prepared about this time.

[75] Y. B. 1 Henry IV, pl. 6, *Quo Warranto*. On the King's powerlessness to grant immunity for debtors, see the opinion of the canon lawyers in 1378, *Rot. Parl.*, III, 37*b* ; *cf.* Fineux, C.J., to the same effect in 1519 ; Keilwey, *Reports*, f. 189*b*. In 1486 some of the judges thought that the King alone could no longer grant a sanctuary for treason, though agreeing he had done so in the past ; Y. B. 1 Henry VII, Trin. pl. 1.

[76] 1429, Keilwey, *op. cit.*, f. 189*b* ; Y. B. 1 Henry VII, *ut supra* ; Y. B. 8 Henry VI, Mich. pl. 9.
1462, Y. B. 2 Edward IV, Mich. pl. 21.
1463, cited Y. B. 1 Henry VII, Pasch. pl. 15.
1486, *ibid.*
1513, Keilwey, *op. cit.*, f. 189*b*.
1516, *ibid.* f. 190*b*.
Cf. Cox, *op. cit.*, p. 310.

did the judges destroy usurpations of sanctuary rights and prevent fresh ones from being made.[77] They also defined the area of a monastic sanctuary as consisting only of the church, cloister, dorter and cemetery, excluding gardens, barns and stables ; Chief Justice Fineux would have excluded also the pantry and buttery, but here his brethren were against him.[78]

In individual cases the strictest use was made of the letter of the law in order to do justice upon a fugitive, and mediæval rigidity in pleading was a weapon of which good use was made. Chief Justice Babington laid down that it was useless for a felon to plead that he had been taken out of a county palatine ; unless the plea was made that he had been taken out of sanctuary, he would be hanged.[79] Nor would it avail him to plead that he took sanctuary for safeguard of his life ; he shall be taken out unless he will acknowledge that he had committed felony.[80] And during Henry VIII's reign the courts upheld at least twice the rule that a man who dealt another a mortal wound, fled to a church, and was taken from it before his victim died, could not enjoy the privilege, since what he had done was not yet a felony at the time of his taking sanctuary.[81] If in court he will only plead that he was removed from sanctuary against his will, *peine forte et dure* shall be awarded him ; while a plea of felony made when the offence has developed into it, shall be tried before the insufficient sanctuary plea, which shall not save him from hanging if he is found guilty.[82]

Such decisions must have greatly diminished the number of criminals which sanctuary, particularly ecclesiastical sanctuary, could cover. But the most notable instance of such

[77] *E.g.*, the case of the Prior of St. John of Jerusalem : 1463, Y. B. 1 Henry VII, Pasch. pl. 15. P. R. O., Coram Rege Roll, 3 Edward IV, *Trin. Rex Rot.* 22*d*. 1485–6, Brook, *Abridgement*, tit. Sanctuary, 8 ; *cf.* Stow, *Survey*, ed. Kingsford, ii. 82. 1494, Y. B. 9 Henry VII, Hil. pl. 15. 1516–19, Keilwey, *op. cit.*, ff. 188–9, 190*b*.

[78] Keilwey, *op. cit.* f. 189. In 1519 the exclusion of the garden was acted upon in a case at the Grey Friars' Convent, Coventry ; the fugitive was hanged ; *ibid.*

[79] Y. B. 8 Henry VI, Mich. pl. 9. But the judges knew well enough that the county palatine was the source of the protection ; *cf.* Townsend, J., in 1486 Y. B. 1 Henry VII, Trin. pl. 1. The distinction was lost in the sixteenth century, with important results ; *infra*, p. 202.

[80] Brook, *Abridgement*, tit. Sanctuary, 9 (3 Henry VII). B.M. Hargrave MS. 388, f. 184 (temp. Henry VIII).

[81] *Ibid.* ff. 184*b*, 211. Dr. Skeel kindly drew my attention to this MS.

[82] *Ibid.* ff. 187*b*–8.

judge-made law was the case of the rebel Humphrey Stafford in 1486. Culham, whither he had fled, could not show the complex legal warrant now required ; it had a charter and usage, but no allowance in eyre. Thereupon the judges proceeded to interpret the general words of the charter according to their plain and literal meaning ; a grant of jurisdiction over the inhabitants of the place did not mean or include jurisdiction over fugitives, and the right to take cognisance of treason was not expressly stated. The charter of Westminster, on the other hand, spoke expressly of fugitives and of protection for all crimes, and that of Culham would have been equally explicit if such rights were intended to be conferred by it. Culham was therefore decreed no sanctuary for treason, and Stafford was executed.[83]

This decision and the arguments whereby it was reached produced a serious change in the law of sanctuary. The judges had taken as a standard the charter of Westminster. After 1486 only places having such a charter specifically expressing their right to protect fugitives, supported by allowance in eyre, could claim to protect fugitive traitors, a situation which becomes Gilbertian when it is remembered that the charter of Westminster is a forgery.[84] All other liberties, palatine and otherwise, be their jurisdiction never so high, were laid open to the operation of the King's law in regard to the highest crime that it knew ; and the innovation was strictly enforced, as Durham, Hexham, and St. Martin le Grand discovered. In the very next year two traitors were taken from the liberty of Hexham and tried and convicted in the royal courts, the King laying special stress on the nature of the offence and his intention not to do anything in derogation of the privileges of the franchise ; if any more offenders are taken out, it shall be on charges of high treason only.[85] Similarly four men guilty of sedition were taken from St. Martin's in 1494,[86] and two ' appeched of treson ' were sent

[83] Y. B. 1 Henry VII, Pasch. pl. 15, Trin. pl. 1. The King took a special interest in the case, perhaps because Henry VI in similar circumstances had failed in his object (Cayme's case, *supra*, n. 48). He desired the judges' opinion before the case came on, and was angry at the week's delay granted to Stafford to prepare his defence.

[84] *Flete's History of Westminster*, ed. Armitage Robinson, pp. 13–15. The sanctuary charter of Colchester was a forgery copied from Westminster's ; Armitage Robinson, *Gilbert Crispin*, p. 162.

[85] *Hist. of Northumberland*, vol. iii. Hexhamshire, p. 41.

[86] *Chron. of London*, ed. Kingsford, p. 199. Three were executed ; the fourth pleaded sanctuary, but was not restored.

by the sheriff of the Bishopric of Durham to the sheriff of Yorkshire in 1495.[87]

So the first Tudor reign saw the old campaign carried on with renewed vigour. The act against fraudulent debtors was being applied and extended,[88] there had been a notable encroachment in cases of treason, and one great franchise, Tynedale, was destroyed by being thrown into the county.[89] Henry VII, however, had to leave the bulk of the work of destruction to his son; in general he could only pursue a policy of trying to confine the privilege strictly within the bounds of existing law and making small encroachments whenever possible, a policy which he induced the Popes to express for him in three bulls.[90] Now, however, sanctuaries and their fate had been drawn into the stream of two great movements: the anti-clerical wave which preceded and facilitated the break with Rome, and the Tudor policy—inevitable in the dawning of a modern age—of destroying all jurisdictions which could rival or resist the power of the King. Circumstances might still delay the end, but they could not prevent it.

Henry VIII's reign did not at first witness any new departure. The Church's last effort to preserve the privilege by reforming it collapsed when Wolsey and the Abbot of Westminster failed to devise an oath which should effectively restrain a fugitive from committing new crimes.[91] The judges steadily continued their work; and Parliament tried to take a hand with a temporary reducing Act in 1512.[92] In 1516 a case, the last of a series in which the Prior of St. John of Jerusalem tried to make good a claim to special sanctuary,[93] revived the controversy, and the result was a great conference

[87] Lapsley, *op. cit.*, p. 229, n. 1.

[88] The King's action was specially commended; Y. B. 1 Henry VII, Hil. pl. 11.

[89] 11 Henry VII, c. 9. It had been in the King's hands since 1295. *Cf. Foed.* xi. 569 (1466).

[90] Dated 1487, 1493 and 1504; *Foed.* xii. 541; xiii. 104; the second and third merely confirm the first. They deprive sanctuary men of the privilege if they commit a second offence, and order traitors in sanctuary to be guarded by royal officers—a slight encroachment. They have been generally misread, and also misinterpreted through the erroneous supposition that sanctuary was based on a papal grant; their real object was probably to prevent royal officers being excommunicated, under certain bulls, while doing their duty. *Cf.* Cox, *op. cit.*, p. 88. On imprisoning a traitor in sanctuary, *Sanct. D. et B.*, p. xvii; Lans. MS. 170, f. 104*b*.

[91] Keilwey, *op. cit.*, ff. 191*b*–192.

[92] 4 Henry VIII, c. 2. It was allowed to lapse because of bitter clerical opposition to its reduction of benefit of clergy; Keilwey, ff. 180*b*–185*b*. The King and some of the House of Commons took part in the struggle over it.

[93] *Supra*, n. 77.

in the Star Chamber in 1519, over which the King himself presided. The mischief caused by sanctuary at St. John's, and by the protection of debtors at Westminster, was set forth, and the Prior and the Abbot produced their charters and defended their claims. But Henry, with a fine disregard for legal arguments and proofs, declared that the sainted Kings and holy Popes who initiated the privilege never intended it to serve for wilful murder or for crime committed out of the sanctuary *sub spe redeundi*. He would have that reformed which had been encroached by abuse, and would reduce the privilege to the original plan of its founders.[94]

This was a clear declaration of policy ; but the assault was delayed another ten years, for, save for the short and stormy session of 1523, Parliament did not meet between this momentous conference and 1529. Then eleven years saw sanctuary's virtual destruction. On the ecclesiastical side Acts of Parliament dealt with it expressly ; on the jurisdictional side it vanished as other Acts extended royal justice to Wales and the North, or by various means assured individual liberties to the King.

One of the first Acts of the Reformation Parliament ensured the effect of abjuration by ordering the abjured person to be branded on the thumb ;[95] while the next session saw the abrupt abolition of abjuration of the realm in favour of abjuration into some jurisdictional sanctuary, second offences either in or out of it being punished by loss of its protection and the imposition of the penalties of the law by royal officers.[96] In 1534 came the first assaults on those Welsh liberties ' into which the Lords Marcher have and do pretend a custom and privilege that none of the King's ministers or subjects may enter to pursue . . . any offender there repaired . . . by reason whereof the same offenders went unpunished.' [97] The ferries of the Severn were stopped between sunset and sunrise,[98] and murder and felony in the lordships marcher were to be inquired of at the sessions in the nearest shire where the King's writ ran, as if committed there. Neither a foreign plea, escape to another lordship, nor an acquittal in a march court, could henceforth be any bar to indictment, while a marcher

[94] Keilwey, *op. cit.*, ff. 188–192.

[95] 21 Henry VIII, c. 2.

[96] 22 Henry VIII, c. 14.

[97] 26 Henry VIII, c. 6, § 11. In the same year the Lords complained of the abuse of sanctuary ; *L. J.* I, 59*b* ; *cf.* 28 Henry VIII, c. 1.

[98] 26 Henry VIII, c. 5.

lord must hand over a ' wanted ' man under penalty of £100.[99] This practically made the lordships part of the nearest English shire as far as criminal justice was concerned, and effectually ended the protection which they had hitherto given. They could still deal with their own criminals in their own courts, but unless they did so in exemplary fashion, the case could be reopened in the shire court, their acquittal or fine notwithstanding. Also untrue acquittals by their jurors in such cases were made punishable by the King's Council in the Marches.[100] So far as protection in Wales was concerned there can have been little need for the great Act for the resumption of jurisdiction passed in the spring session of 1536, which similarly opened all the great liberties of the North, even the county palatine of Durham, to the King's criminal justice.[101]

Henceforth the protection of a liberty as such was a thing of the past. But the false ecclesiastical colour which permanent sanctuary had gained in a number of cases enabled it to persist at the central churches of former liberties after its true basis was gone. Accident had separated itself from substance and survived it ; it had established a separate existence and would have to be separately destroyed. For this must be blamed the inevitable tendency of churchmen to plead ecclesiastical and papal sanctions for the privilege, and to produce forged charters granting them sanctuary in express words : the growth of ecclesiastical ceremonies of admission and their connection with the fabric of the Church in many cases ; the action of the judges in insisting on a plea of sanctuary and holding one of jurisdictional privilege insufficient, and particularly their decision in Stafford's case : and perhaps a reluctance amongst administrators to press the Acts destroying liberties to their logical conclusion. At all events, permanent sanctuary in the great churches of former ecclesiastical liberties continued, and was confirmed and recognised by the restrictions now placed upon the grithmen there.[102]

The work of making the King's power supreme was completed in the North by the assurance of the Percy lands to the King ;[103] in Wales by its complete incorporation with England

[99] 26 Henry VIII, c. 6. [100] *Ibid.* c. 4.

[101] 27 Henry VIII, c. 24. *Cf.* Reid, *op. cit.*, pp. 117–8 ; Lapsley, *op. cit.*, pp. 196–7.

[102] 27 Henry VIII, c. 19. Registration continued at Beverley until 1539.

[103] *Ibid.* c. 47.

and English law and the conversion of all its lordships into shire ground.[104] The lords marcher might still hold ordinary manorial courts, and as a sop half the forfeitures on recognisances were to be paid over to them by the sheriffs; and this, joined with their small numbers,[105] induced them to submit quietly to the cataclysmic change, while the North rose in rebellion to recover its ancient rights.[106] Yet even this sweeping programme did not come up to the government's original intentions, for Cromwell had noted while preparing for this parliament, 'Item specially to speke of utter destruction of seyntuaries. Item for the dissolucion of all fraunchyses and liberties throughout this realme, and specyallye the franchyse of spyrytuall.'[107] The franchises had indeed been destroyed so far as independence, protection and criminal justice went; but the sanctuaries which in the case of ecclesiastical liberties had asserted an illogical separate existence, though regulated, were not reduced, save that the privilege was withdrawn from servants who should steal goods committed by their masters to their charge.[108]

In 1540 came the crown of Henry's destructive work with regard to sanctuary.[109] Treason had already in 1534 been exempted from its privilege;[110] now all serious felonies followed suit; all sanctuaries save churches and churchyards were abolished,[111] while to make assurance doubly sure another Act vested all the liberties and franchises of dissolved monasteries in the King.[112] Henry made one concession

[104] 27 Henry VIII, c. 26.

[105] *Ibid.* *Cf.* Skeel, *Council in the Marches of Wales*, p. 37. Similarly in Yorkshire an inquiry held in 1535 into liberties in derogation of the King's rights revealed that many were already in the King's hands. Reid, *op. cit.*, p. 117.

[106] Reid, *op. cit.*, pp. 129–30, 137, 138–9, and references. The lords and subjects alike of the liberties joined the rebellion for this reason, and the rebels' demands included one for the restoration of sanctuary as at the King's accession, and another, 'The liberties of the Church to have their old customs.' *L. & P.*, xi. 1245, 1246 (18 and 19). *Cf.* the Archbishop of York's efforts to save Hexham, *ibid.* x. 716, and the resistance made there to the dissolution commissioners, *ibid.* xi. 504.

[107] *L. & P.*, x. 254.

[108] Stat. 27 Henry VIII, c. 17.

[109] Ushered in by another 'remembrance' of Cromwell's: 'Item for a determynatyon of the saintuaries.' *L. & P.*, xv. 438.

[110] 25 Henry VIII, c. 22, § 7; 26 Henry VIII, c. 13.

[111] 32 Henry VIII, c. 12.

[112] *Ibid.* c. 20; it provides that all persons shall continue to have any liberties they enjoy by the King's grant, sanctuary excepted. The monastic sanctuaries had come to an end before these Acts, by the dissolution and surrender of the houses to the crown. In the case of Beaulieu (1538), the murderers and felons had to depart, but the well-behaved debtors were allowed to remain there for life, no more being received. *L. & P.* xiii. (i.), 668, 792, 796, 877.

to his subjects' frailty by setting up eight cities of refuge in place of the defunct liberties ; but they could protect for little save debt, they might not shelter more than twenty persons at a time, and these had to undergo strict supervision and irksome regulations.[113] Such was the poor fragment that was left of a once mighty institution.

Henry's work in this as in other directions was promptly modified by Protector Somerset. He maintained the abolition of the privilege for treason, wilful murder and aggravated forms of theft, but restored it to all other felons, as it had been at Henry VIII's accession.[114] This implicitly destroyed the cities of refuge ;[115] but there seems to have been no intention of repealing Henry's destructive Act of 1540 or reinstating the liberties in their independence. Nor did Mary's attempt to restore the old religion include any restoration of sanctuary ;[116]

[113] The cities were Wells, Westminster, Northampton, Norwich, York, Derby, Manchester and Launceston. In 1541 commissioners were ordered to allot special quarters in them to the sanctuary men : *Proc. of P. C.*, vii. 133. Manchester speedily objected to its new burden, which by 33 Henry VIII, c. 15, was transferred to West Chester ; and almost immediately re-transferred by proclamation, as provided by that Act, to Stafford : Steele, *Tudor and Stuart Proclamations*, No. 223.

[114] Stat. 1 Edward VI, c. 12, § 9 ; *cf.* 2 & 3 Edward VI, c. 33. In cases of treason the abolition of sanctuary was maintained implicitly by the wording of § 1 of 1 Edward VI, c. 12 ; *cf.* Willis Bund, *Selection of Cases from the State Trials*, i. p. xxxviii. By a proclamation in London dated August 3, 1547, Somerset had enforced the loss of sanctuary in two classes of murder cases : *Rec. Corp. Journ.* XV, f. 318.

[115] Cox, *op. cit.*, p. 329, considers that they were destroyed by the enigmatical clause in 1 James I, c. 25, noticed below. But in February 1558 a bill against sanctuary stated that abjuration could not be made out of the realm, since a statute forbade it, 'nor into any sanctuary within the realm, *where none was indeed*, though at Westminster by usurpation and permission it had of late been used' (Bodleian MS., Rawlinson, D. 68, printed by Stanley, *Memorials of Westminster Abbey*, 3rd edn., pp. 642–8). All the cities of refuge except Westminster disappear from records.

[116] She re-established and re-endowed Westminster Abbey by a charter dated November 10, 1556 (*Pat. Roll*, 3 and 4 P. and M., pt. 5, mm. 1–6), and restored its jurisdictional rights by letters patent dated in September 1557 (cited, Westminster Abbey Muniments, No. 7344; no warrant or enrolment found). But Council notes on August 16 and October 26, 1556 (quoted by Cox, p. 75), make it clear that sanctuary at Westminster was then being used ; and sanctuary men took part in the Abbot's procession on the day of his installation ; *Machyn's Diary* (Camden Soc.), p. 121. No revival of sanctuary was therefore needed, as Cox, p. 74, supposes. This re-opens the question whether 1 Edward VI, c. 12, destroyed the cities of refuge, as except by the Act of 1540 permanent sanctuary at Westminster could have had no legal basis at that time ; but then what would have been the meaning of the words used in Parliament in February 1558 ? Sanctuary, however, was a very tough privilege which survived more than one legal abolition. Cox also claims (*op. cit.* pp. 147–9) revival of sanctuary at Beverley on the ground of the addition at the end of the MS. register of some names with the addition of 'jur,' dated during the reigns of Edward VI and Mary. These, however, are simply admissions of burgesses, which occur in that form in other parts of the volume and are sometimes headed as such, as is one of those on which Cox founds

and in the last year of her reign the Commons once more made a determined attack upon what remained, apparently with the intention of entirely destroying it except in the case of certain specified churches. A bill was prepared, and redrafted in committee ;[117] and the Abbot of Westminster was sent for, to show the grounds on which he claimed the privilege there.[118] The bill, however, was still pending when the Queen died, and the matter dropped until 1563, when the Commons produced a new bill to deprive debtors of the privilege.[119] Two days after the House had passed it Parliament was prorogued, and did not meet again till the autumn of 1566. Then the first bill read was one to compel sanctuary men to pay their debts ;[120] but again the committee redrafted it, and when it was re-introduced the abolition of sanctuary for debt was once more its object.[121] Then, 'upon allegations made for the sanctuary of Westminster,' Dean Goodman was given a day on which to come and plead for it. He and his counsel[122] put forward royal grants, including those of the mythical Lucius and of Edward the Confessor, and other evidence from chronicles and reasons in law, and a committee headed by the Master of the Rolls was ordered to peruse the grants and 'to certify the force of the law now for sanctuaries.' Upon their report, which was apparently unfavourable, the bill was ordered to be engrossed,[123] but at the third reading it was lost on a division,[124] and nothing more was done to reduce the privilege during Elizabeth's reign, though in 1569 the Council, on the advice of the judges, pronounced against sanctuary covering fraudulent debtors.[125] The occasion was the flight to Westminster of one William Whitacres, against whom action had

his theory : B. M. Harl. MS., 4292, ff. 1, 26, 29, 34. Revival is therefore not proved ; but apparently at Westminster there was survival. It may be noted that Mary's charter to Westminster grants all property 'infra ambitum et procinctum sanctuarii' ; Elizabeth's (*Pat. Roll* 2 Eliz., pt. 11, mm. 15–23), says 'infra . . . *nuper* sanctuarii.'

[117] *C. J.*, I, 48*a*, 48*b*, 49*a*.

[118] *Ibid.* 49*a*. The action of the Commons, and his speech, are printed by Stanley, *ut supra*. The date should be Friday, February 11, 1558. The abbot made his defence on the following Saturday and Tuesday, *loc. cit.* He pleaded the old grants of Edgar and St. Edward and the Queen's charter in general words. The 1540 Act was not mentioned, which seems to be another argument for its repeal in 1547 ; and there was the same omission in 1569.

[119] *C. J.*, I, 67*a*, 67*b*, 72*a*. [120] *Ibid.* 73*b*. [121] *Ibid.*

[122] *Ibid.* 74*b*. One of them, Plowden, had been one of Abbot Feckenham's counsel in 1558.

[123] *Ibid.* 76*a*. [124] *Ibid.* 79*a* ; with the bill, 60 ; against, 77.

[125] *Westminster Abbey Muniments*, No. 9592, June 30, 1569.

been taken in the Star Chamber for neglecting to pay legacies under a will. Again Dean Goodman was called upon to produce his charters, since the Council 'supposed verely that their was no such libertie or priveledge of sanctuarie graunted unto him in defence of any suche abuse.' Again the judges reported that the general words in which the privileges of Westminster were granted would not warrant the protection of debtors, unsupported as it was by allowance in any court. But though Whitacres was thereupon removed to the Fleet, the privilege in general went on as before, though possibly undeserving cases were weeded out as the result of a survey undertaken a month earlier of the sanctuary men and their debts.[126] But a rigid oath against fraud and non-payment was now administered to the fugitive on his arrival, including a clause that untrue statements as to his debts or assets shall invalidate all claim to the privilege; while the Archdeacon was to follow this up with a lecture on 'what a daynger hit is before God to defraude any man willingly of his goodes the which is agaynst his lawes . . . and what a rebuke hit is to any man to clayme sanctuary and a dyscredyt to his occupying for ever. And doe therefore advyse hym to remembre these premisses and to retorne before he be knowen openly.'[127]

James I's first parliament, in an Act for continuing and repealing various existing statutes, repealed all relating to abjured persons and sanctuaries and the ordering and governing of sanctuary men.[128] What effect this was intended to have is uncertain, but that it was considered even at the time to be ambiguous and faulty is proved by the introduction of several bills on that ground in 1606. The Lords introduced one which disappeared after its third reading,[129] and a second[130] which, when sent down to the Commons, evidently displeased the large committee appointed to deal with it and was allowed to 'sleep.' A third, initiated by the Commons themselves,

[126] *Westminster Abbey Muniments*, No. 9594. It is dated May 25, 1569, and includes Whitacres. Some of the names are later found in cases before the Star Chamber; Westlake, *Westminster Abbey* (1923), ii. 427. For two other cases under Elizabeth, see Cox, *op. cit.*, p. 78.

[127] B.M. Lans. MS., 24, No. 84.

[128] 1 James I, c. 25, § 7, 1604. It might be taken to free sanctuary men from all restrictions (*cf.* Coke, III *Institute*, c. 51), but was more probably meant to abolish the privilege by removing all positive mention of it from the statute book. The Lords' first bill in 1606 was 'to abolish sanctuary'; *L. J.*, ii. 425*b*.

[129] *Ibid.* 426*a*, 431*b*.

[130] *Ibid.* 431*b*, 435*b*, 436*b*.

caused much dispute, and had only reached the stage of engrossment when Parliament was adjourned.[131] In later sessions the question was probably relegated to the background by the continual quarrels between King and Parliament on other matters ; but at last in 1623 two brief clauses in another continuing and repealing Act revived all statutes taking away sanctuary, and declared all privileges of sanctuary abolished.[132] Even this did not prevent the tough old privilege for debt from dragging out an existence in various places till 1727 ;[133] but legally its career was closed. In the primitive times which gave it birth it had been useful and necessary ; but, as Hallam[134] has expressed it, ' under a due administration of justice, this privilege would have been simply and constantly mischievous, as we properly consider it to be in those countries where it still subsists. But in the rapine and tumult of the Middle Ages, the right of sanctuary might as often be a shield to innocence as an impunity to crime. We can hardly regret, in reflecting on the desolating violence which prevailed, that there should have been some green spots in the wilderness where the feeble and the persecuted could find refuge.'

I. D. Thornley.

[131] *C. J.*, I, 310*b*, 311*a*, 311*b*.
[132] 21 James I, c. 28, §§ 6 and 7.
[133] Cox, *op. cit.*
[134] *Middle Ages* (1853), III, p. 302.

THE POLITICAL INFLUENCE OF 'THE NORTH PARTS' UNDER THE LATER TUDORS

Not the least of Henry VIII's achievements was the success that attended his efforts to solve the problem of the North which had baffled so many kings of England. When he had united with the Crown all the franchises and liberties north of the Trent, save Durham only, and with the lands of the Nevilles and the Percies had drawn into his own hands all the offices that had once been held by those over-mighty subjects almost of right, and had established his Council in the North parts as the supreme administrative and judicial authority beyond the Trent, it must have seemed to contemporaries, as it has done to most historians, that the North had ceased to be a factor in national history, save when, as in 1569, it rose in rebellion against the changes in church and state that were imposed upon it by the South. As a matter of fact, however, Henry's successful attack on the feudalism which had so long held in check the growth of royal authority beyond the Trent, did not make the North any the less a source of anxiety to the government. Far from relieving the poverty that underlay and explained its turbulence, he had by his religious policy aggravated the one and furnished an excuse for the other ; while his attempts to bring Scotland under his rule had given the northerners a sure ally in the event of revolt. Thus, through its poverty, its Catholicism, and its nearness to Scotland, the North remained a political factor never to be ignored by Tudor statesmen. Indeed, it became more rather than less important ; for in gaining control of the Northern Marches the Crown gained control of the only troops in the country that were always under arms, thereby making it a matter of the first importance to the ambitious and unscrupulous men who aspired to supremacy after Henry's death, to secure control of the administration of the North. The consequence was that at three of the crises in the history of the

country occurring between the deaths of Henry VIII and Elizabeth, the Presidency of the Council in the North and the Wardenship of the Marches became marks for the intrigue that played so great a part in the domestic history of England during the latter half of the sixteenth century. The first of these crises came through the rivalry of Somerset and Warwick for the first place in the state ; the second through the struggle for supremacy between the old nobility, led by the Duke of Norfolk, and the new men, led by Warwick's son, the Earl of Leicester, and Sir William Cecil ; and the third through the rivalry of the Earl of Essex and Sir Robert Cecil for the favour of Elizabeth and her successor.

When Henry VIII died, the Duke of Somerset had been lieutenant-general north of the Trent for nearly three years, during which his influence had become paramount there. The officers of the army against the Scots had been appointed by him, and the Wardens of the Marches were his friends, as were the Keepers of the chief castles in the North. The Lord President of the Council in the North, too, owed his elevation to the see of York to Somerset's influence ; several of his protégés had been admitted to the Council itself ; and others held more or less important places in the administration of the Crown lands and revenues beyond the Trent.[1]

The control thus obtained over the North must have contributed not a little to Somerset's success in obtaining his own appointment as Protector of the Realm and Governor of the king's person during the minority of Edward VI. Nor can it be ignored when we seek to account for the absence of any serious opposition to him when carrying out, not only the more decidedly Protestant policy in religion foreshadowed during the closing months of Henry VIII's reign—the dissolution of the chantries and gilds, the introduction of the first Book of Common Prayer, and the enforcement of its use by the first Act of Uniformity—but also his own agrarian policy against enclosures and rack-renting. Nevertheless, his hold on the North was less secure than it seemed. Save for those who owed their places solely to his favour, his hold depended wholly on the interested goodwill of those among the gentry and burgesses into whose hands the local government

[1] *E.g.* his brother-in-law, Sir Michael Stanhope, was Governor of Hull as well as senior Burgess for York ; and his servant, Richard Whalley, was Auditor and Receiver-general of Yorkshire.

of the North had passed after the failure of the Pilgrimage of Grace in 1536 ; and among these, however much they might approve his policy in religion, wide-spread discontent had been roused by the economic policy enforced by the Council in the North at his bidding. The landowners, and especially the new men who had bought the lands of the abbeys or of the rebels attainted for their part in the rising of 1536, resented bitterly the Council's efforts to ensure that 'the poor people should not be oppressed but might live after their sorts and qualities,' since these prevented them from winning the last farthing out of their tenants. The traders likewise resented its efforts to check the rise in prices and to enforce the numerous statutes passed about that time against engrossers and regrators of food-stuffs and raw materials ; and they shared the dislike of the master-craftsmen for the Scottish war which took away many labourers, apprentices and journeymen to serve as soldiers and lie in garrisons, enabling those who were left behind, and especially those who belonged to the better-organised gilds, to obtain a certain rise of wages.[2]

This change in the attitude of the governing classes in the North towards Somerset must have been well known to the Lords of the Council, who were jealous of his power as Protector and resentful against his arrogance ; and doubtless they took account of it when Ket's rebellion assured them the support of the same classes in the South, Protestant as well as Catholic, against the author of the agrarian policy that had indirectly provoked the rising. Distinctions of creed were ignored, and the Earl of Warwick, the leader of the extreme reformers, had Wriothesley, the leader of the Catholics, as his chief ally in the cabal now formed against the Protector. Becoming aware of the intrigues against him too late to summon to his aid his friends in the northern army, Somerset could only make a wild appeal to the Londoners to rise on his, the King's, and their own behalf. This merely gave his enemies the excuse they needed to bring a charge of treason against him ; and on October 14 he was brought from Windsor, whither he had fled, to lodge in the Tower.[3]

The intriguers, who by this coup d'état became masters of England, made it their first business to secure control of the North. So, four days after Somerset's arrest, Sir Richard

[2] York House Books, xix. f. 40.

[3] *Acts of P. C.*, ii. 330 ; *Greyfriars Chron.* (Camden Soc.), p. 64.

Cotton was sent to York ' to consider and survey the matters of the North, being of great charge and importance,' and to take order with the Warden of the East and Middle Marches for reforming any abuses or neglect by officers and soldiers.[4] Some weeks later, negotiations for peace with France and Scotland began, and the disbanding of the army on the Borders allowed the Lords of the Council to breathe more freely.

They could not, however, feel quite safe while the Council in the North was controlled by Somerset's protégés. A small insurrection raised at Seamer near Scarborough in August 1549, ' for reforming abuses in religion,' which had been easily quelled by the offer of a free pardon and the execution of the leaders,[5] served as a pretext for removing Archbishop Holgate from the Presidency in favour of the Earl of Shrewsbury. The appointment was in every way a suitable one. A great Yorkshire landowner, the Earl, who was already Justice of the Forests beyond the Trent, had been a member of the Council in the North since 1545, and during the Scottish war had been active as Lieutenant in Yorkshire. Several members of the Council were either his kinsmen or his servants, and his influence in it was completely secured by the addition of seven new members, including the Bishop of Durham and the Earl of Westmorland. Moreover, as a Catholic he was entirely acceptable as ruler of the Catholic North, so that his appointment to the Presidency, together with a revision of the Instructions to the Council which restricted its action with regard to enclosures and rack-renting, to ' wrongful ' enclosures and ' unreasonable ' fines and gressoms, while requiring it to suppress *coadiunctiones*, including combinations of workmen to raise wages or determine hours of labour, sufficed to win over the governing classes, both Catholic and Protestant.[6]

Before Shrewsbury went north to take up his new office, however, the political situation had changed again. Somerset's fall had been brought about by a coalition of Catholics and advanced reformers which could not survive its success. At first, a Catholic restoration seemed to be at hand. But it was soon clear that a policy of religious reaction could not be carried out against a parliament that passed from social legislation

[4] *Acts of P. C.*, ii. 346 ; S. P. Dom. Add. Edw. VI, iii. No. 55.
[5] Stow, *Annals*, p. 597.
[6] R. R. Reid, *The King's Council in the North*, pp. 169–172.

to an attack on episcopal jurisdictions ; and an unrecorded struggle in the Council of State ended in Wriothesley's expulsion from it on February 2, 1550. Four days later, Somerset, who had been acquitted on charges reduced to little more than a vote of censure, was released from the Tower. The Reformation was to go on.

Nevertheless, it was only with the help of the moderate Catholics that Warwick had routed the reactionaries. It was not possible therefore to deprive their leader, the Earl of Shrewsbury, of the Presidency to which he had been appointed; but Warwick could not fail to see in him a possible rival for supreme power. The new President therefore not only went to York without the commission of Lieutenancy that every Governor of the North had hitherto had, but was obliged to admit as Vice-president of the Council Warwick's friend, Lord Wharton.[7] Moreover, though Shrewsbury's brother-in-law, Lord Dacre of Gilsland, was made Warden of the West March in Wharton's stead, Warwick took to himself the much more important Wardenship of the East and Middle Marches, and at the same time, to counterbalance the Talbot possessions in South Yorkshire, obtained a grant from the Crown of all the Percy lands in that county and in Northumberland, save Alnwick.[8]

There was good reason for these precautions. Warwick had determined to throw in his lot with the advanced Reformers, and under his leadership the Council adopted a revolutionary policy in religion which offended the many who approved Henry VIII's policy in religion, no less than the few who detested it. Somerset was quick to seize the chance of regaining his popularity. As early as June, 1550, he was trying to gain the same power in the Council as had been his when Protector[9] ; and when the Council resolved to prosecute the Bishop of Winchester under the Act of Uniformity, he made himself the leader of the opposition. By so doing, he won the support of the leading English Catholics, and when the struggle ended on February 14, 1551, in Gardiner's condemnation and the rejection of his appeal to the King, Somerset had come to an understanding with Shrewsbury and was once more at the head of a powerful faction which soon had behind it nearly the whole strength of the North.

[7] Talbot MSS, B., ff. 171, 173. [8] *Acts of P. C.*, ii. 393 ; iii. 23, 88, 92, 102, 117.
[9] *Literary Remains of Edward VI*, p. clvi,

Warwick, however, did not wait for his rival to act. The very day after Gardiner's condemnation, Richard Whalley, auditor and receiver-general of Yorkshire, an indiscreet partisan of Somerset's, who had been at work persuading several of the lords—among them the Lord President of the North—to have his patron made Protector again in the next Parliament, was sent to the Fleet ; the Marquis of Dorset, with a great company, was sent north as Warden-general of the Marches ; Shrewsbury was threatened with the loss of his Presidency ; and the Earl of Derby was commanded to renounce to the king his title to the Isle of Man.[10] For a time, civil war seemed certain. The Earls of Shrewsbury and Derby, Lord Dacre, and the Constables—who controlled Hull—and all their retainers were said to be preparing ; all men out of wages were taken up, 'but whereunto it is not known. . . . There is chopping and changing of them of the Council. The gentry are obliged to fortify themselves in their houses, except those who are obliged to go to the wars, and the common people die for hunger. . . . The end of this heavy tragedy of the realm, with the ruin of the king, will shortly be seen.'[11] By his own confession, too, Somerset now entered into a plot whereby he should, with the help of the citizens of London, secure the persons of Warwick and his chief supporters by a coup d'état on St. George's Day (April 23), while Shrewsbury and Derby raised the North.[12] But in the end he appears to have determined to await the meeting of the parliament which Warwick's financial difficulties must soon force him to summon ; and when Derby rode in from the North at the end of May, followed a few days later by Shrewsbury with 140 horse and 40 gentlemen wearing velvet coats and chains, all in his livery, the peace was still unbroken.

Warwick was well aware that when Parliament did meet he would be called to account and Somerset be restored to power, unless he could first make himself master of England. Intending to shelter behind the throne while wielding its authority, he therefore set himself first to win a hold over the boy-king's mind, and then to bring the regency to an end.

[10] *Lit. Rem. of Edw. VI*, p. 303 ; *Acts of P. C.*, iii: 223 ; *Cal. S. P. For.*, 1547–1553, pp. 119–120.

[11] *Ibid.*

[12] Howell, *State Trials*, 'The Trial of the Duke of Somerset' ; S. P. Dom. Edw. VI, xiii: No. 17.

By the beginning of October all was ready, so Somerset was summoned to Court. On the very day of his arrival Dorset resigned the Wardenship of the Marches to Warwick, in compensation being created Duke of Suffolk when the latter became Duke of Northumberland. Three days later (October 7) Edward was informed of the St. George's Day plot, which was represented to him as one for the assassination of Warwick and his friends ; and on October 16 Somerset and his friends were sent to the Tower.[13]

In the final draft of the charges against him, Somerset stood accused of plotting the imprisonment—not the murder—of Northumberland and his friends, the inciting of the Londoners to revolt, and the raising of rebellion in the North ; but when he had been found guilty of felony on the second charge, the others were not pressed and no evidence was offered in support of them. They served, nevertheless, to warn Shrewsbury and his friends of the danger in which they stood ; and the lesson was driven home by the imprisonment of the Lord President's own brother-in-law, Lord Dacre, in the Fleet (November 25, 1551), for a feud with the Musgraves.[14] Immediately after the trial, moreover, new deputy-wardens devoted to Northumberland took over the control of the Border forces, to which were added the men in the Warden's own pay with whom a grant of Alnwick and Tynemouth enabled him to garrison those strongholds.[15] Discretion, therefore, seemed the better part of valour to the northern lords and gentlemen, and no attempt was made to raise the North on Somerset's behalf. Perhaps it was expected that the parliament which was to meet on January 23 would save him ; but at sunrise on the 22nd he was, by Northumberland's order, beheaded on Tower Hill.

Northumberland was now free to carry out his own policy in Church and State. So far as the North was concerned, he at once set about completing Henry VIII's work there by uniting with the Crown the last great liberty, the County Palatine of Durham. A pretext was found in a charge of misprision of treason brought against Bishop Tunstall because, learning of a foolish plot hatched by the Earl of Westmorland to seize the King's treasure at Middleham and raise the people

[13] *Acts of P. C.*, iii. 379 ; *Lit. Rem. of Edw. VI.*, p. 71.
[14] *Acts of P. C.*, iii. 367, 447.
[15] *Ibid.* iii. 438 ; Strype, *Ecclesiastical Memorials*, ii. pt. 2, p. 223.

against the calling down of the coin, he had revealed it to Somerset but not to the Council.[16] On this charge he had been sent to the Tower in December 1551 ; and before Parliament rose, a bill depriving him of the Bishopric was brought in. Passed by the Lords, it had to be dropped when the Commons demanded that the Bishop and his accessories should appear in person.[17] To grant this was to reveal the worthlessness of the charge ; so Northumberland had to seek his ends by other and more arbitrary means.

Before doing so, however, he had to secure himself against all possibility of armed resistance in the North. A grant of the chief stewardship of the East Riding and all the King's lordships there, with authority to control and appoint all other officers there, gave him more than all the power that the Percies had had ;[18] Westmorland, the most influential man in the Bishopric, was won to his interest by being admitted to the Order of the Garter in Somerset's place.[19] Then, in May 1552, commissions were issued appointing certain noblemen in every county to be the King's justices to inquire of all treasons and rebellions, and to be the King's lieutenants to levy men and to do justice on rebels by martial law. Such commissions were no new thing in the North, where one for all the shires beyond Trent had been given to every ruler of the north parts. But Northumberland had no mind to give such power to Shrewsbury, in whom he could not, since Somerset's death, fail to see his only rival for supreme power. So the Lord President had to be content with the lieutenancy of Yorkshire only, while Northumberland as Warden-general took to himself the lieutenancy of Northumberland and Cumberland, and gave that of Westmorland to the Earl of Cumberland as hereditary sheriff, and that of Durham to the Earl of Westmorland as chief steward of the bishopric.[20] A few days later, the Council agreed ' that for as much as the state of things in the north parts required to be substantially looked into and put in some good order in time . . . the Duke's Grace of Northumberland . . . should very shortly repair into the north parts . . . and having settled the same in some order of good and politic governance, to

[16] *Ibid.* pp. 74–75 ; De Chambre, *Hist. Dunelmensis*, p. 155. A letter written by Warwick to Cecil, September 16, 1550, fixes the date as not later than the summer of 1550 ; S. P. Dom. Edw. VI, x. No. 31.

[17] *L. J.*, i, 416–418 ; *C. J.*, i. 21.

[18] Strype, *op. cit.*, p. 224.

[19] *Machyn's Diary* (Camden Soc.), p. 17.

[20] Strype, *op. cit.*, p. 162.

return again with convenient speed.'[21] Accordingly, on June 16, his Grace of Northumberland 'took horse at 5 of the clock in the morning to look after the Marches towards Scotland.'[22] There his chief concern was to fill all places of trust with men of his own choosing, and to win Shrewsbury to his faction by making him Keeper for life of all the royal castles in Yorkshire and Nottingham.[23] This done, he left the composing of feuds—his ostensible business—to his new deputy-warden-general, Lord Wharton, and returned to his place at the Council table at the end of August, having disbursed during his short visit to the North no less a sum than £10,000.[24]

All was now ready for the Bishop of Durham's deprivation and forfeiture. So in October Tunstall was tried before a special commission of lay judges sitting at the White Friars, found guilty, deprived, and sent back to the Tower, where he remained till released by Mary in August 1553. Then the bishopric was divided into the dioceses of Durham and Newcastle, and the county palatine was united with the Crown. Northumberland, who had just obtained Barnard Castle from the King, was at once made Chief Steward; and Westmorland was left to find what consolation he might in a free pardon for all treasons and conspiracies before March 28, 1553, and for all heresies and undue uttering of words against the King and his councillors.

Thanks to the influence that this accumulation of lands and offices in his hands gave to Northumberland, who as Warden-general of the Marches already had sole control of the only armed forces in the country, the North remained quite quiet during the last months of Edward VI's reign and even during the brief weeks of Queen Jane's. But the men to whom he had entrusted the government of the North were moved by self-interest only; and when once Queen Mary had been proclaimed, they vied with one another in protesting their loyalty to her. Shrewsbury, who stood by Northumberland's side when Lady Jane Grey was proclaimed queen, was more loyal than most of his fellows, yet he too, when once the Duke had thrown up the game, hastened to make his peace with the new sovereign. After some hesitation, Mary accepted his submission, and on September 1

[21] *Acts of P. C.*, iv: 55.
[22] *Machyn's Diary*, p. 21.
[23] Pat. 6 Edw. VI, p. 8*d*.
[24] Strype, *op. cit.*, ii. pt. 2, p. 12.

signed the letters patent for the continuance of this Presidency of the Council in the North. She need have had no fear. It mattered little to Shrewsbury who ruled England so long as he ruled the North, and he was ready to swear allegiance to whoever would allow him to keep his offices there.

Mary's policy in Church and State was so much in accordance with the wishes of the North that she had no reason to fear trouble from that quarter, and no one thought to intrigue for power there. A few changes were made. The county palatine and bishopric of Durham were, as a matter of course, restored to Tunstall in 1554 ; and the Percy lands and the earldom of Northumberland were restored to Sir Thomas Percy's son when he was made Warden of the East and Middle Marches in 1557, on the eve of a war with France which might bring war with Scotland too. But in other respects all went on as before.

Elizabeth's accession, too, at first brought few changes to the North. She could not at the beginning of her reign afford to offend the leader of the moderate Catholics ; so Shrewsbury remained Lord President of the Council in the North, though he had to accept, as members of the Council, Sir Henry Gate and other men who had enjoyed Warwick's favour and now had his son's. In the Marches she had a free hand, thanks to the Scottish war of 1560. So the Earl of Northumberland was forced by a series of petty insults and slights to resign the Wardenship of the East and Middle Marches and the Keeperships of Tynedale and Redesdale, and although Lord Dacre was allowed to retain the Wardenship of the West March, he was kept much at court.[25] At the same time, many tried soldiers of long service in the Marches were discharged simply because they had been born in one of the Border shires, and the custody of the northern strongholds was given to ' inland ' men.

Thus to secure control of the Marches was a distinct gain for the Crown ; but it was dearly bought. The new officials were often absentees who regarded their offices merely as places of profit and left the castles in their custody to fall into ruins, while they fined the tenants and enclosed the lands without care for the safety of the March ; faction was left to rage unchecked, and disorder grew, while the decay of

[25] Sadler, *State Papers*, ii. 58, 79, 108 ; *Cal. S. P. For.*, 1561–62, No. 323.

the Borders went on apace during the long years of peace that followed the expulsion of the French from Scotland and the establishment of the Reformation there. Soon men began to look back with longing to the good old days when they were ruled by great lords who kept open house and rode with orderly apparel and a noble company of servants ; and 'the olde goodwyll of the people, deepe-graftyd in their harts, to their nobles and gentlemen,' grew stronger, until Elizabeth's most faithful servants had to admit that in the north country they knew no prince but a Percy or a Dacre.[26]

In religion it was the same. While Shrewsbury remained Lord President no attempt could be made to enforce the Elizabethan settlement in the North ; but his death in September 1560, just after a pro-English government had been established in Scotland, cleared the way for the appointment of a Protestant Lord President in the person of the Earl of Rutland. To strengthen his hands, the newly appointed Archbishop of York and Bishop of Durham were added to the Council, and its Instructions were revised so as to make it the Court of High Commission beyond the Trent. Yet Rutland could do nothing. The legal members of the Council, without whom he could not act, refused to take the oath of supremacy, and although many of the clergy were deprived for a like refusal, when Rutland died in 1563, the oath had not yet been administered to the laity. Further delay was caused by the appointment of Leicester's brother, the Earl of Warwick, as Lord President, while he was commanding the English forces at Havre. On his return, it was found that his health would not stand the cold of a northern winter ; and it was not until the Archbishop of York had been appointed in his stead (May 1564), that a real effort to suppress northern recusancy could be made.[27]

It was indeed high time that the laws touching religion should be enforced beyond the Trent. For there were many churches where Mass was still said openly, and many more where, owing to the ignorance of the poorly-paid pastors, there had been no sermons since the beginning of the reign, so that the people gladly hired for small wages the Scottish priests who had fled from Knox's reformation, and who now did 'more harm than any other would or could in dissuading the

[26] 'The Rebellion of the Earls, 1569,' in *Trans. R. Hist. Soc.*, 1906, pp. 174 ff.
[27] Reid, *op. cit.*, pp. 188 ff.

people.'[28] Nevertheless, on taking office, Archbishop Young, for reasons known only to himself, informed the Queen that 'this country is in good quietness, and the common people tractable touching obedience in religion. . . . The stay against religion in these parts was only the nobility, gentlemen and clergy; and although the clergy remain in their wonted blindness, yet the gentlemen begin to reform themselves, and the clergy also.'[29] So he took no steps to enforce the laws touching religion; and in December 1569 Sadler could write, 'There be not in all this country ten gentlemen that do favour and allow of Her Majesty's proceedings in religion, and the common people be ignorant, full of superstition, and altogether blinded with the old Popish doctrine.'[30]

Add to this the distress caused by the rapid fall in the price of wool after 1550, while rents were still rising, and by the long peace which meant the reduction of the Border garrison and a decline in the demand for horses, corn, and other military requirements,[31] a distress that was aggravated by the statute of Artificers and Labourers (1563), which checked the development of cloth-weaving as a domestic industry in the country districts and prevented the countrymen from seeking work in the towns, so that the land was filled with needy people who through want 'were enforced to commit outrageous offences, whereby they were daily consumed with the gallows,' and 'cumbered with loiterers, vagabonds and suchlike idle persons,' the very stuff out of which rioters and rebels are most easily made;[32] and it becomes easy to understand how the North still held so great a place in the minds of Tudor statesmen as it did down to the very end of Elizabeth's reign.

The danger lurking in the distress and discontent of the North was the greater because of the uncertainty of the succession. In the early years of Elizabeth's reign there was among the Catholics as a whole no thought of deposing her. The objectionable features of her policy and administration were ascribed to the influence of Cecil and Leicester, and it was hoped that by their removal concessions, or at least toleration, in religion would be obtained. The position,

[28] *Cal. S. P. Scotland*, ii. No. 529; *Cal. S. P. Dom. Add.*, 1566–79, p. 64; S. P. Dom. Add. Eliz., xii. No. 108; *Camden Misc.*, ix. *passim*.

[29] *Cal. S. P. For.*, 1564–65, No. 533.

[30] *Cal. S. P. Dom. Add.*, 1566–79, p. 139.

[31] B. M. Cott. MS., Calig. B., ix. 6.

[32] Sir Humphrey Gilbert, *Discourse on the North-west Passage*, pp. 60–61.

however, would be very different, were she to be succeeded by an avowed Protestant; and during these early years—indeed, to the end of the reign—the succession question was the touchstone of party.

Those who favoured the Elizabethan settlement upheld Henry VIII's will, which gave the succession after Elizabeth to Lady Catherine Grey, the elder surviving grand-daughter of his younger sister, while those who held by the old order preferred the claims of Margaret Douglas, Countess of Lennox, or of Mary, Queen of Scots, respectively the daughter and the grand-daughter of his elder sister. Of these two, we are accustomed to regard the Scots queen as having the better claim; but the English Catholics thought otherwise during the first years of Elizabeth's reign. For Mary was foreign-born and bred, whereas Lady Lennox was English as well as a generation nearer to Margaret Tudor, through whom both claimed. Furthermore, Mary's son, if she had one, would be King of France as well as Scotland; whereas Lady Lennox's two sons were as English as herself and their succession could not bring England under foreign influence. It is therefore easy to understand how it was that the Spanish ambassador could inform his master early in 1560 that if Elizabeth were to die without issue, Lady Margaret's elder son, Lord Darnley, would be universally accepted for king, and that even then, at the first opportunity, many Catholic lords would proclaim him king.[33] Here he was wrong. The party that would depose Elizabeth in favour of Lady Lennox or her son was but a small one, though it might grow if foreign aid were forthcoming. But in so much as the leaders were the Earl of Northumberland and Sir Richard Cholmley, Lord of Whitby Strand and Constable of Scarborough Castle, Elizabeth had reason for alarm when she learnt that Lady Lennox had assumed royal state at her Yorkshire home and was seeking for her son a marriage with his cousin, the widowed Queen of Scots;[34] therefore, at the end of 1561 Lady Lennox with her husband and sons and several of their Yorkshire neighbours were summoned to London and sent to the Tower, ostensibly because they were showing such favour to Catholics that the Archbishop durst not punish them.[35] Four years later, when

[33] *Cal. S. P. Spain*, 1558–1567, No. 93; *cf.* Melvil, *Memoirs*, p. 102–3.
[34] S. P. Dom. Add. Eliz. xii. No. 8; S. P. Dom. Eliz., xxiii. No. 6.
[35] *Cal. S. P. Spain*, 1558–1567, Nos. 144, 154; *Cal. S. P. Scotland*, ii. No. 464.

the marriage had taken place, the Lennoxes were again sent to the Tower, Northumberland was kept at court, and Cholmley was imprisoned at York.[36] But the mischief was done ; and ere long Elizabeth learned with dismay that Mary was in close touch with the English Catholics, who were transferring to her the allegiance they had hitherto given to Darnley.[37]

By this time it was not only the Catholics who looked on Mary as Elizabeth's successor. Many of the Protestants were as anxious as they for the recognition of the Scots Queen as heir-presumptive, Elizabeth herself having made the succession of either of Lady Jane Grey's sisters impossible. Moreover, the administration was just as unpopular with the Protestant lords as with the Catholic. The Duke of Norfolk, with the Earls of Sussex and Arundel, and others of the old nobility, viewed with a jealousy and distrust hardly less than Northumberland's and Dacre's the confidence bestowed by the Queen on the ' new men,' and ambition and revenge alike urged them to join the Catholics in seeking to remove their rivals from the Council.[38]

Their opportunity seemed to come with the arrival of Mary at Workington in May 1568. Four years earlier, a marriage between Mary and Norfolk had been suggested as having all the advantages and none of the disadvantages of the marriage with Leicester offered by Elizabeth as an alternative to that with Darnley ;[39] and although nothing had come of it, Mary had kept in touch with Sussex and Norfolk as well as with the Catholic lords. Now the whole party drew together, to force Elizabeth to accept their policy. Cecil urged that she should, in virtue of her superiority over Scotland, judicially find Mary guilty of Darnley's murder and keep her in England as a hostage for the neutrality of France and the subservience of Scotland.[40] But the Queen recognised that, as Sussex pointed out, ' one that hath a crown can hardly persuade another to leave her crown because her subjects will not obey ' ; and she understood to the full the danger of breaking with her rival until it was certain that no one would or could take up arms on her behalf. So she inclined at first

[36] *Ibid.* ii. Nos. 178, 185, 213.
[37] *Ibid.* ii. Nos. 265, 301, 464, 467 ; *Cal. S. P. For.*, 1566–68, No. 56.
[38] La Mothe Fénelon, *Correspondance*, i. p. 258.
[39] *Cal. S. P. Spain*, 1558–1567, No. 280.
[40] *Cal. S. P. Scotland*, ii. No. 679.

to the policy urged by Sussex, who would have her clear Mary of the charge of murder and restore her to her throne, if in return the Queen of Scots would ratify the Treaty of Leith and break the Scottish league with France.[41]

Thus it came to pass that when Archbishop Young died in June, she made Sussex Lord President of the North, and appointed him and his nephew, the Duke of Norfolk, together with Sir Ralph Sadler, her commissioners to meet the representatives of Mary and the Scottish lords in conference at York. The real object of the conference was to arrange a Tripartite Treaty embodying Sussex's policy;[42] and to facilitate it the Catholics suggested that as a guarantee of good faith Mary should marry Norfolk.[43] All seemed to be going well; but during the absence of Sussex and Norfolk, Cecil and Leicester regained their ascendancy, and Elizabeth suddenly summoned the Commissioners to London. There, under cover of a conference at Westminster, she arranged an alliance with Moray, whereby she undertook to support him as regent in Scotland and to keep his sister in England, on condition that James should be entrusted to her own care and that English troops should garrison Edinburgh, Stirling and Dumbarton.[44] The Scots, however, raised such an outcry when warned of the plan by Mary, that it had to be dropped;[45] and when Moray returned to Scotland, Elizabeth had not yet determined how to deal with her cousin and prisoner.

The country, already on the verge of war with Spain through the high-handed seizure in December 1568 of treasure destined for Alba, now began to drift towards civil war. Cecil, therefore, learning that the lords were planning to arrest him in the Council Chamber, bent before the storm so far as to offer Moray a new Tri-partite Treaty (May 1569), and urge him to further Mary's marriage with Norfolk.[46] But the danger passed away almost at once, as the death of Lord Dacre enabled Cecil to win over Norfolk by securing the best part of the Dacre lands to the dead boy's sisters, the Duke's wards and the wives of his two sons. The Three

[41] *Hatfield Cal.* (Hist. MSS. Comm.), i. No. 1209.
[42] S. P. Dom. Eliz., xlvii. No. 36.
[43] Sharpe, *Memorials of the Rebellion of* 1569, pp. 193–4.
[44] *Cal. S. P. Scotland*, ii. Nos. 822, 931; *Hatfield Cal.*, i. Nos. 121, 1231; *Cal. S. P. Venice*, 1558–80, No. 449.
[45] *Cal. S. P. Scotland*, ii. No. 937.
[46] *Ibid*, ii, Nos. 1049, 1058.

Degrees already sent to Moray were now only an embarrassment ; but he and Cecil understood one another. The Regent, therefore, delayed to answer until he had crushed Huntly and the Gordons ; then he induced the Scottish Council to reject Cecil's offer (July) ; and with Maitland's arrest (September 3), and his own arrival at Kelso with a strong force, ostensibly to suppress the outlaws on the March, the need to temporise passed away. In August Elizabeth had bidden Norfolk take good heed to his pillow ; now, she bade him go no further with his marriage.[47]

It was the critical moment. The Earls of Northumberland, Westmorland, Cumberland, Derby and Sussex had been consulted privately by the Duke about his marriage with Mary, and had returned more or less favourable answers. The ambassadors of France and Spain had also been approached, and Alba had sent money, while Catherine de Medici promised all the help she could to further the marriage.[48] Under cover of horse-races and hunting parties, the Earls of Northumberland and Westmorland, with the Dacres, Nortons and other Catholic gentlemen of Yorkshire and the Bishopric, had held frequent consultation, and Norfolk had been assured that if he could not bring about his purposes with the Queen's good will, he should have their assistance to the uttermost of their powers.[49] So now the Duke departed from court without leave and went to London, where he was consulting Arundel and Pembroke when an order to go to Windsor reached him. Warned that he would be sent to the Tower, he slipped away to Kenninghall in Norfolk. Thence he sent a message to Northumberland that he would stand and abide the venture ; but finding that his friends there and the chief gentlemen of the county were unwilling to rise, he afterwards sent a message to the Earls not to rise, for if they did, it should cost him his head, as he was about to go to court.[50] A week later he was in the Tower.

Cecil followed up his triumph by ordering Sussex to bid

[47] S. P. Dom. Eliz., lxxxiii. No. 11.

[48] *Ibid.*; Sharpe, *op. cit.*, pp. 189 ff. ; Haynes, *Burghley State Papers*, p. 549 ; Murdin, *State Papers*, 1571–96, pp. 30–31, 42, 44, 51, 131, 216 ; *Cal. S. P. Dom. Add.*, 1566–79, p. 89 ; *Cal. S. P. Scotland*, ii. No. 1135 ; *Cal. S. P. Spain*, ii. No. 102 ; *Lettres de Catherine de Medici*, ii. p. 274 ; La Mothe Fénelon, *op. cit.*, ii. pp. 194, 215.

[49] P.R.O. Coram Rege Roll, No. 1233 ; S. P. Dom. Eliz., lxvii, No. 59 ; *ibid.* lxxxv. No. 33 ; *Cal. S. P. Dom. Add.*, 1566–79, pp. 81–2.

[50] Haynes, pp. 527–8 ; Murdin, p. 44 ; S. P. Dom. Eliz., lxxxi. No. 57.

Northumberland and Westmorland repair to court and to arrest them should they refuse to obey. This was the signal for the rising known as the rebellion of the Earls. From the first it was doomed to failure. With Mary and Norfolk in Elizabeth's hands, it could not be for the succession ; to make it for religion was to break the alliance with the Protestant lords on which success depended. Sorely against their will, and yielding at the last only to a threat of personal violence,[51] the Earls appealed to all of the old Catholic religion to aid them in 'restoring all ancient customs and liberties to God's church and this noble realm.' This was no quarrel for Sussex to take part in, and the Lord President of the North took such action as secured the speedy collapse of the rising. Just six weeks after they raised their standard, the Earls were in full flight for the Scottish border.[52]

Their downfall involved that of their whole order, and despite his services Sussex was summoned to court as soon as he had finished hanging some 800 rebels—all of the poorer sort—and had broken the strength of Mary's party in Scotland by two great raids into Teviotdale and Liddesdale. It was not, however, until after the executions of the Duke of Norfolk on Tower Hill in June 1572, and of the Earl of Northumberland at York in August, that Cecil was assured that the time had come to replace Sussex by a Lord President of his own party. Then Henry Hastings, Earl of Huntingdon, Elizabeth's cousin and Leicester's brother-in-law, was sent north to take up the office that he was to hold for over twenty years.

For the greater part of that time the North gave no cause for anxiety to Elizabeth and Cecil ; but before Huntingdon's death it became once more a mark for the attention of the court factions striving for supremacy in the State. These had their origin in the personal rivalry of Sir Robert Cecil, Lord Burghley's second son, and the Earl of Essex, Leicester's stepson, and at first no political principle was involved in the struggle. Yet it was inevitable that in the course of time a certain difference of policy should emerge, and that the several elements of discord in the nation should range themselves under one or the other of the rival leaders. Cecil, who had

[51] Sharpe, pp. 199–200 ; *Hatfield Cal.* i. No. 1490.

[52] Reid, 'The Rebellion of the Earls, 1569,' in *Trans. R. Hist. Soc.*, 1906, pp. 174 ff.

been admitted as Secretary of State in August 1591, had no courtly graces to match those of his brilliant rival, but he had all the advantage that comes from possession. As his father's son, he was pledged to uphold the Anglican settlement and uniformity in religion, and to follow a cautious foreign policy having peace with Spain as its end—a policy that won the approval both of the old nobility and of the mercantile classes. Essex, who had succeeded Leicester as the leader of the advanced Reformers, adopted an adventurous foreign policy of naval enterprise with colonial empire as its goal, and sought the support of the extremists in religion by advocating toleration of Puritan and Papist alike. The rivalry of the factions affected every part of national policy and every office of state; and it was inevitable that the control of the North, the stronghold of Catholicism, should become a mark for intrigue.

It was in 1592 that the attention of the schemers was first drawn to the North. Ever since James VI of Scotland attained his majority, he had been drifting away from the English alliance, and there was some likelihood that the Scottish Catholics, who had been seeking since 1580 to persuade or compel him to become a Catholic, might yet gain their end. Should they do so, an invasion of England and a rising of the Northern Catholics might reasonably be expected to follow. There was even some risk that Philip of Spain, now at open war with England, might at last give the aid for which the Scots were always asking. Fear of attack by a force crossing the Scottish border had already led Elizabeth to cast about for means to get into her own hands the Percy and Dacre lands; but Throgmorton's and Paget's plots failed to furnish sufficient pretext for attainting either the Earl of Northumberland or the husbands of the Dacre co-heiresses, the Earl of Arundel and his brother, Lord William Howard. Leicester therefore stirred up Francis Dacre, now the Queen's man, to obtain the Dacre lands as heir male. But his claim could not be proved for lack of evidence removed from the records of the Council in the North by Sussex at Norfolk's instance[53]; and losing hope after Leicester's death in 1588, he fled in the following year to Scotland, where James promised that when he should be King of England he would restore to Dacre all that his family had lost for his mother's cause. In Scotland, Dacre was soon drawn into the schemes of the Scottish

[53] B. M. Lans. MS., 54, f. 84; Harl. MS., 6996, No. 55.

Catholics for the undoing of the Reformation in Scotland and England through the conversion of James to Catholicism; and ere long it came to Cecil's knowledge not only that he was stirring up the Dacre tenants, who had never ceased to look on his brothers and himself as their rightful lords, but also that he was, through Anthony Bacon, putting the Catholics, both Scottish and English, in touch with Essex on the one hand and with Philip of Spain on the other.[54]

Armed with this knowledge, when Parliament met in 1593 Cecil made much of the danger from the Scottish intrigues with Spain and from the increasing recusancy in England, and obtained a large subsidy and a new set of penal laws against extremists in religion, both Papist and Puritan. Then Huntingdon, who had already been directed to make thorough search for the principal recusants and seducers of the people, was sent north to fortify the Borders and to resume the execution of recusants and seminaries. Several of those taken were known or suspected to be agents of Dacre, among them being the well-known Father Walpole; and Cecil soon had matter enough to outlaw Dacre for treason, whereupon he was found heir to the Dacre lands which at last passed into the Queen's hands.[55] But he failed to implicate Essex in Dacre's schemes; and he had to content himself with trying to break up by a ruthless persecution the Catholic party that had been working for James VI's succession to the English crown ever since his mother's execution in 1587.

As the only agency for doing this beyond the Trent was the Council in the North sitting under the Presidency of the Archbishop of York as a Court of High Commission, it became a matter of the first importance to both Cecil and Essex to secure control of that body. At first Essex had the advantage. Huntingdon's close relationship to Leicester had given the latter considerable influence over admissions to the Council, and several of the more important members were still attached to his stepson's party. Moreover, Huntingdon himself, although a Puritan, was not by nature a persecutor, and Archbishop Hutton was on principle opposed to compulsion in religion.[56] Essex therefore had no difficulty in

[54] S. P. Dom. Add., xxxi. No. 17; *Cal. S. P. Dom.*, 1595–97, p. 78; *ibid.* 1601–3, p. 3; Harl. MS., 6998, f. 97 ff., 'Confessions of John Whitfield, servant of Francis Dacre.'

[55] S. P. Dom. Eliz., ccxlii. No. 105; S. P. Dom. Add., xxxii, Nos. 81–3.

[56] Hutton, *Correspondence*, p. 155; S. P. Dom. Eliz., xlviii. No. 41.

preventing the penal laws against recusants being too strictly enforced ; and, as we have seen, the executions of recusants and seminaries became numerous only after Huntingdon had been sharply scolded before the Lords of the Council for a laxity that allowed the leading recusants to ride in Yorkshire and the North parts like Robin Hood.[57] Even then, recusants presented before Hutton were usually allowed to go unpunished, unless they were on good grounds suspected of plotting against the Queen.[58] When we find, besides, that it was at Essex's instance that Wright, of Gunpowder Plot fame, was allowed to live openly in his father's house at York, where he busied himself reconciling many to Rome,[59] and that the Earl, through Edward Stanhope, one of the legal members of the Council in the North, was keeping in touch with Thomas Percy, also engaged afterwards in Gunpowder Plot,[60] we must admit that Cecil had reason for seeking to introduce friends of his own into the Council at York.

His first success was the appointment of his friend Charles Hales as one of the learned Councillors, just before Huntingdon was ordered to arrest the leading recusants.[61] Then in 1595 he secured the appointment of John Ferne, a kinsman of his friend Lord Sheffield, as Secretary to the Council ; and a month later he obtained the Wardenship of the Middle Marches for his friend Lord Eure. It was, however, over the Presidency that the real trial of strength must come whenever Huntingdon's death left the office vacant. This happened in December 1595. At the moment, the influence of Essex, just about to start on his voyage to Cadiz, was strong enough to secure the rule of the North for Archbishop Hutton in February 1596. This was a serious check to the Cecils, but they were still strong enough to minimise their defeat by reducing Hutton's title to that of Head of the Council. Thus, in theory at least, the office of Lord President was still vacant when Essex went to Ireland in April 1599 to take command against Tyrone. The fruitless campaign in which he wasted the summer months roused the Queen's anger against him, and Cecil seized the opportunity to obtain Hutton's dismissal, ostensibly on account of his great age and ill-health, really

[57] *Hatfield Cal.*, v. 135 ; S. P. Dom. Eliz. ccxlv. No. 131.

[58] B. M. Lans. MS., 84, No. 104 ; Add. MS., 30, 262. E. 2.

[59] Lans. MS., 983, f. 57 ; *ibid.*, 79, No. 44 ; *Hatfield Cal.*, xii. 232 ; *Cal. S. P. Dom.*, 1598–1601, pp. 216, 453, 568.

[60] *Hatfield Cal.*, ix. January 15, 1599.

[61] Murdin, *op. cit.* p. 799.

because of his 'overmuch toleration used to recusants,' and the appointment of his own brother, Lord Burghley, as Lord President of the Council in the North in August.[62]

Cecil's purpose in obtaining this appointment was never in doubt. He was well aware that Essex, who was now corresponding with James VI, was in close touch with the northern Catholics, and that as Elizabeth's long life drew to its close, the danger of a rising in the North to secure the succession of the King of Scots and toleration in religion became greater. It was known that the tenants of the Dacre lands were dangerously affected to Francis Dacre, as were most of the gentlemen of the West March and their retainers; that they had lately entered into a dangerous combination by oath and league to maintain the cause of the Scottish king, to whom they were ready to deliver Carlisle; and that in support of it, Dacre was then renewing the old alliance between his house and the Maxwells.[63] In Yorkshire, too, Henry Cholmley, whose father had been one of Lady Lennox's chief supporters, and whose son, another Sir Richard Cholmley, was one of Essex's chief helpers, had made his liberty of Whitby Strand a very bishopric of Papists, where all traitors from beyond seas were received.[64] So when Burghley went north in September 1599, it was with instructions (1) to take the command of the trained bands out of the hands of 'such as are so notoriously infected with Popery and other princes' affections as they are desirous of alteration'; (2) 'to reform and correct the dangerous and abundant falling away from Religion'; (3) to make inquest of the unlawful retaining of the subjects by persons who had fled from the realm, and (4) to cause the Councillors to take an oath of obedience to the Queen and of true and faithful service in the Council.

These instructions Burghley at once began to carry out, and within a few months all that could be done to put the country in readiness against either a Catholic rising or a Scottish inroad had been done. Then a campaign against recusancy began in which no distinction was made between the followers of the Jesuits, who sought the violent overthrow of the Elizabethan settlement in the interests of Spain, and the followers of the Seculars, who were willing to take the oath

[62] Reid, *The King's Council in the North*, p. 230. [63] *Cal. Border P.*, ii. No. 1013.
[64] S. P. Dom. Eliz., cclvi. No. 83; cclxvii. No. 120; cclxx. No. 99; cclxxi. No. 9; cclxxiv. No. 11; *Hatfield Cal.*, xi. 39, 214.

of allegiance as the price of toleration. Harsh as they were, these measures were justified by success ; for when Essex, who had ruined himself with the Queen by deserting his post in Ireland on learning of Burghley's appointment, rose in premature revolt in February, 1601, no rising broke the peace of the North.

Nevertheless, this could hardly have been the case if James had been left in the belief that after Essex's downfall his succession to the English crown would depend solely on the support of the northern Catholics. The southern nobles and gentry with Catholic sympathies, who followed the traditional English policy of maintaining a good understanding with Spain and Flanders against France and Scotland, were bitterly opposed to the succession of the Scottish king, preferring to promote that of his cousin, Margaret Douglas's grand-daughter, Lady Arabella Stuart. Cecil could not do without the support of these men ; but he saw clearly that any attempt to bring in any other sovereign than James on Elizabeth's death, would lead to civil war between North and South, in which the North would be aided by Scotland, and if need arose, by France. The South would also have to seek foreign aid, which could only be Spanish ; and the subversion of Protestantism would almost certainly follow, no matter which side won. England could be saved from war, and the Reformation could be preserved, only by an understanding between James and Cecil, who should keep each his own party in play until such time as the Scottish king might ascend the English throne without the aid of the one or the hindrance of the other. So when the ambassadors whom James sent south in March 1601 to demand from Elizabeth the recognition of his rights and to arrange with Essex for an armed rising to force her consent, arrived in London a few days after the Earl had been beheaded on Tower Hill, Cecil arranged with them at a meeting at his own house in the Strand to begin a secret correspondence with their master that ended only when James became king of England.[65]

Therefore, when Burghley went north again after helping his brother to destroy Essex, it was to guard the secret of that brother's correspondence with the king of Scots, and to see to it that the northern Catholics, while kept powerless, were not driven into a revolt of despair. So the northern gentlemen who had been associated with Essex in his mad enterprise—

[65] *Correspondence of James VI and Cecil* (Camden Soc.), Introduction.

Sir Richard Cholmley of Whitby Strand, Simon Mallory of Ripon, and Captain John Selby of Berwick—were let off with moderate fines ;[66] and proclamation was made that while the Queen could not distinguish between Catholics who advocated her murder and those who did not, she exempted from the order to leave the country all who went before the Council, the Lord President of the North or the Bishops, and declared their allegiance.[67] At the same time, precautions were taken against surprise. A new Council in the Marches was established to reduce that turbulent district to order ; and the Dacre heiresses having been allowed to buy back their lands, Lord William Howard was sent to Naworth to keep watch over Francis Dacre's dealings with the gentlemen of the West March.

Thanks to these measures, James's succession to the throne in March, 1603, was quite peaceful save for a wild outburst of plundering in the West March by the Graemes and Armstrongs, which may have been intended to secure Francis Dacre's rights, but which was easily quelled by troops sent from Berwick by James when on his way south.[68] The Catholics, knowing nothing of James's understanding with the Cecils, really believed in his promise of toleration, and it was only when the re-enforcement of the recusancy laws undeceived them, that Essex's restless scheming at last bore fruit in the Main, Bye and Gunpowder plots.

The failure of these showed that Catholicism was no longer a force to be feared even in the North ; the recovery of trade after the restoration of peace with Spain, and the development of cloth-weaving and the clothing-trade in the West Riding removed the chief cause of unrest ; and the union of the Crowns made the garrisoning of the Marches unnecessary. The Wardenship of the Marches ceased to exist ; and although the Presidency of the Council in the North remained to be the mark for intrigue for another forty years, it was so only as an office of profit under the Crown, and neither the fate of nations nor that of any great cause depended on its bestowal. At last the North had ceased to be dangerous, and in so doing it had ceased to be important.

[66] *Hatfield Cal.*, xi. 39, 75, 87, 103, 140, 212, 214, 564.
[67] S. P. Dom. Eliz., cclxxxv. No. 52.
[68] Hatfield MSS., cxlix. No. 75 ; S. P. Dom. James I., vi. No. 93.

R. R. Reid.

TUDOR REFORMS IN THE ROYAL HOUSEHOLD

The administrative reforms that mark the Tudor period as the turning-point of English history left almost every department of the state radically different from what it had been when the period opened. It is a commonplace to say that the first Tudor found England an ill-arranged and loosely managed group of communities, and that his grand-daughter left it a nation with a recognisably modern and efficient administrative machine. The period was marked by stabilisation and definition of function that penetrated into every organ of the state and even into the most inchoate and formless of them all, the Court. The crowd of persons of all ranks from the highest to the lowest who were always jostling and crowding round the King, was of overshadowing social and administrative importance in the mediæval kingdom. Most of them had ordinarily to perform some functions that were more or less ill-defined by tradition and that had some perquisites of cast-off clothes or victuals attached, but all were ready to undertake any task that might be laid upon them in the hope of winning some direct notice from their master or some small share of his royal favour. There came about in the course of centuries a gradual differentiation of function in this undifferentiated mass, that made certain of the men about the Court devote the whole of their attention to one particular sort of task, the managing of the King's estates, the writing of his letters, or the hearing of petitions made to him. These definite functions lifted them out of the scrambling crowd, and gradually most of the direct duties of government, as we regard them, were taken 'out of Court.' Those entrusted with them lost their privilege of eating amidst the noisy profusion of the King's hall and of having free lodging, light and firing at his expense, but they acquired instead a recognised position and office in the state, and their duties were clearly defined, so that they were no longer

dependent upon the caprice of favour ; they had become civil servants and had ceased to be courtiers. By the fifteenth century this differentiation of function and the passing of offices ' out of Court ' had proceeded so far as to give shape to all the great departments of state save one, that of the Secretary; but the undifferentiated residuum remained, and there was little recognisable difference between the Court of the late fifteenth and that of the late thirteenth century. After the last and, in some ways, the most far-reaching outburst of Chamber and Household activity under Henry VII, the final change or, as we might almost call it, the final crystallisation of function came about under the reign of his son, Henry VIII. When the reign began, the Household was still an agency of importance in the management of the kingdom and the usual source of supply from which trained officials could be drawn to carry out any and every extraordinary mission on the King's behalf; when it ended, all this was over, the Chamber and Household had shrunk into their own domestic functions, the first as the Lord Chamberlain's department to manage the ceremonies and provide the state that must hedge about the King, the second as the Lord Steward's department to supply his material needs and those of his courtiers, to feed and warm and lodge them. Some further small measures of reform were needed under Mary and Elizabeth to make the system work more efficiently and less wastefully ; but the great changes were brought about by Henry VIII, aided successively by his ministers, Wolsey and Cromwell. In 1509 any and every Household officer might be employed in the ordinary business of government ; in 1547 none but the very highest who held what had become merely sinecure Household appointments, played any part in national affairs.

The organisation of the mediæval Household has received considerable attention from historians,[1] and its important part in the administration of the kingdom has thus been revealed ; the similar part played during the earlier years of the Tudor period has, however, been very little studied, although a larger amount of documentary material remains for its elucidation than for the earlier time. Only a preliminary survey of one side of the organisation has been undertaken in my article on ' The King's Chamber under the early Tudors,'[2] which was

[1] Especially Professor T. F. Tout in *The Place of Edward II in English History*, pp. 161–180, and in his *Chapters in the Administrative History of Mediæval England*.

[2] *E.H.R.* (1917), xxxii. pp. 348–372.

essentially a part of the history of national administration rather than of the Court. The administrative system of the Household on its domestic side has been even less studied, and what attention it has received has been rather antiquarian than historical. This neglect is unfortunate, for controversies about Household management demanded much attention from the King's ministers in the sixteenth and early seventeenth centuries when the Court still appeared to them, as it had to mediæval statesmen, the centre of the administration of the kingdom, and when its support was still the first claim upon the revenue. To use a modern phrase, the Household was still in the minds of the men of the time among the most important of the 'spending departments.' With the gradual limitation of its functions it had ceased to be the most costly, but the efforts of the ministers of every monarch from Henry VIII to Charles I were directed to attempts to curb extravagance and waste at Court, so as to make it less of a drain upon the always inadequate royal revenues. The traditional demand as late as the time of James I was the same as it had been under Henry VI and Edward IV, that the King should 'live of his own.' The close connection of this demand with the need for good Household management was kept vividly in the minds of all classes of his subjects; for some of their most irritating grievances were concerned with ancient and customary rights of the royal Household such as purveyance and cart-taking. The lavish profusion and disorder of the Court were familiar not only to the citizens of London and Westminster, but in the course of the perennial royal progresses passed in turn through most parts of the southern and midland counties. When questions of economy in expenditure came up for debate, it was natural for every man to think first of the waste and peculation that he had himself witnessed when he journeyed from his country town or farmstead to gape at the Court festivities and spectacles at one of the King's halting-places on progress. It is of some historical interest, therefore, to attempt a cursory survey of the Tudor reforms in Household management and the system that they introduced, which with a few further changes under James I lasted almost untouched until the period of Burke's great administrative reforms at the close of the American War.

The subject falls naturally into two parts, the methods of supply of money for the Household, which need not long detain us, and the way in which that money was expended in the

Chamber or 'household above stairs' and the Lord Steward's department or 'household below stairs.' It is this last part of the subject that has been least studied, though the greater part of Court expenditure took place under the control of the Board of Greencloth. This department was both an immense commissariat with its own complex systems of supply and account, and an official world that offered life careers to many hundreds of employees and was recruited in many cases generation after generation from the same families. The Civil Service of to-day finds a closer parallel under the rule of the Greencloth than anywhere else in Tudor times, save perhaps in the Exchequer, and the questions that interested its employees, like promotion by seniority, allowances and gratuities, and the amount of pensions,[3] bear a curious resemblance to many of those that are debated in Whitehall to-day.

The supply of the Household was in the first half of the fifteenth century derived from two sources, the produce of the royal estates in money and kind, the King's 'livelode,' as Fortescue calls it,[4] and the commodities and services that could be claimed from the subjects under the traditional rights of purveyance and other analogous dues. There was no clear distinction between the supply of the King for what we now regard as the natural purposes and tasks of Government, and his supply for his own maintenance and that of his children and personal servants. The idea of a Civil List dates little further back than the eighteenth century, and in the fifteenth and sixteenth it was unknown. The demand that the King should 'live of his own' and should only make claims upon the generosity of his subjects in Parliament to meet extraordinary expenditure, made no distinction as to the purposes for which money was expended. But the decay of the royal revenues under the Lancastrians was such that not merely was it impossible for them to discharge the expenses of Government, but the revenues were also insufficient to defray the actual living expenses of the King and Queen and their attendants, and they were reduced to serious financial straits. Repeated appeals were made to the representatives of the subjects in Parliament for grants in aid, and certain of the ancient customary revenues

[3] The origin of Civil Service pensions dates back only to the mid-nineteenth century and it is not here implied that there is any connection with the Household. But pensions in the Army, especially in the Guards regiments, have a direct Household ancestry.

[4] *Governance of England*, ed. Plummer.

that would normally have been paid in to the Receipt of the Exchequer, were set aside and collected by Household officials for the maintenance of the King's estate. Even thus Henry VI fell deeper and deeper into penury, and the evil could not be redressed until after the drastic measures of reconstruction that were undertaken by Edward IV on his restoration in 1471. In the Parliament of 1472 the King made formal promise to sustain all his ordinary charges without appeal for special grants and subsidies. It was not until the end of his reign, however, that the matter was put upon a regular basis, and the King took the assignment of revenues for the maintenance of the Household out of the uncertain sphere of administrative caprice and definitely registered the assigned amounts and their sources in open Parliament.

By the Act of 1482,[5] items of revenue producing 11,000*l.* a year were ordered to be assigned by the Treasurer of England, to be paid over by their receivers directly to the Treasurer of the Household for its maintenance and thus to relieve the grievous charge to the people by the taking of their goods and chattels. On the accession of Henry VII this measure was renewed,[6] but with a variation in the assignments that brought the total annual amount up to 14,000*l.* In 1495, as a part of the great financial reforms that he was then engaged upon, Henry VII in Parliament again altered the arrangements somewhat,[7] and while maintaining a total of 13,059*l.* 9*s.* 11*d.*, directed that the receivers of the assigned revenues should pay them not to the Treasurer of the Household, but to the Treasurer *or* Cofferer. In practice this meant that the Cofferer was now fully recognised as the chief financial officer of the Household and that the Treasurer had ceased to have active functions. The next alteration took place in the first Parliament of Henry VIII,[8] when the yearly assignments were increased to 19,394*l.* 16*s.* 3½*d.*, and the sums charged upon the receivers were directed to be paid to the Cofferer who would deliver tallies or bills to the accountants in full discharge. The early years of Henry VIII saw the high-water mark of the financial system of Chamber accounting, when the Treasurer of the Chamber became one of the most important and powerful financial officers in the Kingdom. In 1523 the provisions of the earlier Act that enjoined yearly assignments by the

[5] *Rot. Parl.*, vi. pp. 198–202.
[6] *Ibid.* vi. pp. 299–303.
[7] *Ibid.* vi. pp. 497–502.
[8] 1 Hen. VIII, c. 16; *S.R.*, iii. pp. 10–12.

Treasurer of England at the Receipt of the Exchequer, of sums to be paid over to the Cofferer of the Household, were repealed, as their levy had not proved sufficiently speedy.[9] The receivers were now directed to pay the stipulated sums to the Treasurer of the Chamber and take his bills as their discharge. This system was probably introduced because the amount collected on the assignments was entirely insufficient to discharge the swollen Household expenditure and the amount that had to be provided from the King's coffers (*i.e.* his private treasure) to make up the deficit, bore a considerable ratio to the whole cost. The new system did not remain in operation for long, for in 1525 there began the great Household reforms that are dealt with below, and in 1530–1 the Act directing payment to the Treasurer of the Chamber was repealed and payments to the Cofferer were restored.[10] This remained as the permanent system of Household supply, and in subsequent Acts relating to the provision of the expenses, only the details of the assignments and the total amount were varied. At the beginning of Elizabeth's reign the total of the assignments was more than doubled and amounted to 40,027*l.* 4*s.* 2½*d.*[11]; but even this was insufficient to defray the expenditure, and for many years in the latter part of her reign about 7000*l.* a year in addition had to be provided out of the Queen's coffers. The medium of her expenditure between the thirty-eighth and the forty-fourth years of her reign was 46,271*l.* 8*s.* 10*d.*[12]

The amounts provided by assignment were not in ready money, but by tallies charged upon the receivers of particular revenues. After obtaining them at the Receipt of the Exchequer the Cofferer had to make arrangements for their collection, and though they were always the first charge upon any receipts after the receiver's expenses of collection had been defalked, they were often difficult of collection and sometimes 'desperate.' Such 'desperate tayles' the Cofferer returned into the Receipt to be exchanged, but he could not wait for his money, for he had constant outgoings. He was obliged to keep a fund of ready money, and this he replenished by tem-

[9] 14–15 Hen. VIII, c. 19; *S.R.*, iii. pp. 245–6.

[10] 22 Hen. VIII, c. 19; *S.R.*, iii. pp. 345–348.

[11] By 5 Eliz., c. 32; *S.R.*, iv. pp. 479–482.

[12] From a collection of Sir Julius Cæsar's papers relating to the Household. At the dispersal of his collection, this volume was purchased by the Officers of the Greencloth and it is now among the Lord Steward's books in the P.R.O., L.S., 13/280, f. 146.

porary loans, to tide the Household over periods when in-payments were slack. These loans he obtained from the King's private coffers that were kept by the Treasurer of the Chamber. In the admirably preserved account books of Henry VII we find pages set apart and labelled 'Cofferer.' They contain repeated entries such as this :

'1 Oct. 15 (Hen. VII) My Lord Steward, master Bray and the Cofferer are bound by an Indenture enrolled in the Chancery to repay unto the King's grace at Candlemas in xij months for as much money borrowed by them of old the sum 2000*l.*

'Item, they shall repay the same day for as much money by them borrowed upon four tallies of Hampton, A° 14, 2320*l.* 13*s.* 4*d.*

'Item, they shall repay at Michaelmas in xij months for as much money by them borrowed in ready money, 3000*l.*'[13]

Such entries are incessant throughout for the reign of Henry VIII, and parallels might be found in every succeeding reign; for the Cofferer, in fact, was engaged in a very complicated financial business, and the work that nowadays would be done by a banking house like Messrs. Coutts and Co., had then and for long after to be transacted within the Compting-house and the Treasury of the Chamber. The needs of the Household were only in part supplied in cash, they were also provided for in kind, but this side of the business is best considered in connection with the 'discharge' side of the Cofferer's accounts.

The Tudor period witnessed several attempts at the reorganisation of the Household system, and the most celebrated and fundamental of these was the great series of reforms undertaken by Wolsey and the Council in 1525–6, many of the most important measures of which were carried out by what are known as the Ordinances of Eltham. These Ordinances were a subject of great interest to the antiquaries of James I's time, when Household reform was again under discussion, and many Stuart copies of what purports to be their text are extant. In reality none of these copies reproduce the original exactly, and most include a good many additions from ordinances of later periods in the reigns of Henry VIII and Mary. They modernise the spelling and amend the phraseology according to the taste of their time, and the only version that seems to have

[13] Henry VII's Book of Payments of which there are two contemporary copies : P.R.O., E. 415/3, and B.M., Add. MS., 21,480.

been printed, that of the Society of Antiquaries published in 1790,[14] does not even reproduce accurately the text of Sir Simonds D'Ewes,[15] from which it claims to have been copied. Unfortunately it has proved impossible to trace the original Ordinances signed by the king at the head and the foot and deposited in the Compting-house as the authority for the Household officers. This document was still in the possession of the Board of Greencloth in 1610,[16] but it may have been lost or destroyed in the troubles that scattered the records of the Board during the Civil War. There is extant, however, among the Laud MSS.[17] in the Bodleian Library a beautifully written copy of the Ordinances of Eltham which bears every evidence of being contemporary and official, though it does not contain the King's signature. There are also among the MSS. in the Public Record Office various papers, including some in Wolsey's hand, that appear to have formed part of the working papers of those who were engaged upon the reforms of 1525–6, and with these and the Laud MS. we are in a position to determine what the measures of reform actually were.

The year 1525 saw an extremely serious crisis in the financial affairs of the kingdom. The great treasure that had been left by Henry VII to his son had very largely been dissipated in the wars that were the result of an over-ambitious foreign policy. The demands for repeated subsidies had aroused serious discontent that culminated in the refusal of Parliament in 1523 to grant further supplies and the widespread passive resistance to the benevolence or so-called ' Amicable Loan ' in 1525. The drain upon the King's financial resources of the further war expenses in those years left him in very serious straits,[18] and the only course to pursue must be that of drastic economical reform to reduce expenditure within income and

[14] Ordinances and Regulations for the Royal Household, London, 1790.

[15] B.M., Harl. MS., p. 642. The text follows more closely that of another Stuart copy, Exchequer, Treasury of Receipt, Misc. Bks., No. 231.

[16] Newton, A. P., ' A List of Records of the Greencloth extant in 1610 ' : *E.H.R.* xxxiv. (1919), pp. 237–41. Transcribed from P.R.O., L.S., 13-226, ff. 171–3. '*Tempore Regis Henrici viij*vi A Booke conteyning both the Statutes of Eltham made in the xvijth year of his Mat^s raigne ; wth the Bouges of Courte dietts & wages allowed then, and a Coppie of the standing Rolle.'

[17] Bodleian, Laud MS., P. 597.

[18] For the serious nature of the financial position *see* Brewer, J. S., Introd. to vol. iv. of *L. & P. Hen. VIII*, p. lxvii. Also *Cal. S.P. Spain*, 1525–6, p. 212. Jehan Le Sauels to the Lady Margaret, Regent of Flanders, June 24, 1525. ' Money they have none, and as to getting it from the people, they know full well that the expedient has been tried once and does not succeed.'

avoid, as far as possible, any further extraordinary demands upon the purses of the subjects and the resentment that they caused. The work of reorganisation began in the summer of 1525 with arrangements for the establishment of a full household on the royal pattern for the King's natural son Henry, Duke of Richmond and Somerset, to be seated in the North parts. Similar arrangements were made for an independent household for the Princess Mary to be seated in the Marches of Wales, and these measures were dictated by no mere desire for pomp and display, but were seriously designed as part of a policy of securing closer control over the outlying parts of the realm, which was forced upon the Crown by the resistance to taxation in 1523 and 1525.[19] The number of the Duke of Richmond's servants and the allowances provided for them were arranged under Wolsey's direct supervision and recorded in a Check Roll and Book of Diet signed by the King.[20] These reforms, of course, did not diminish expenditure except in so far as they led to greater efficiency of administration ; they merely rearranged its incidence, for they removed the revenues of large appanages from the direct support of the Crown, and used them for the purposes of stricter government in the outlying parts of the realm. The next step was to undertake the drastic reformation of the abuses of the Court that had been contemplated by the Cardinal ever since 1519.[21] With this task Wolsey concerned himself throughout the late summer and autumn of 1525, while the King, with only a small number of personal attendants, was moving about with little state from one country house to another to avoid the plague that was ravaging London.[22] The Cardinal was assisted in the formulation of his plans principally by Sir Henry Guldeford, the Comptroller of the Household.[23] His attention was first paid to the reform of the

[19] Reid, R. R., *The King's Council in the North*, p. 101 ; Skeel, C. A. J., *The Council in the Marches of Wales*, p. 49. Dr. Reid's examination of the personnel of the Duke of Richmond's household is of great interest as affording additional proof that all the measures of Household reform were part of one statesmanlike scheme on the part of Wolsey.

[20] *L. & P.*, iv. nos. 1512–3–4, etc. : The references given throughout these notes to Letters and Papers have been made, not to the calendar, but the originals.

[21] B.M., Cott. MS., Tit. B. i. 180. [1519] 'The king's pleasure is that his Household from henceforth shall be put in honourable, substantial and profitable order without any further delay or tract of time. And for the doing thereof his Grace hath appointed the Lord Cardinal, the Duke of Norfolk, the Lord Privy Seal, Sir Henry Marney, the king's secretary and the head officers of the said Household.'

[22] Hall, *Chronicle* (edn. 1809), p. 707.

[23] *L. & P.*, iv. 1572. Sir Henry Guldeford to Wolsey, August 15, 1525.

Chamber and the limitation of the number of persons allowed ordinarily to frequent the Court. Charles Somerset, Earl of Worcester, had held the office of Lord Chamberlain since the beginning of the reign and was responsible for the good government of the Court above stairs. But he was getting old and feeble[24] and was incapacitated from a strict fulfilment of his duties. He appears to have taken no part in the reforms, and when they were completed, he was superseded by William, Lord Sandys, who had been Treasurer of Calais and was a noted disciplinarian.[25] Sir William Fitzwilliam, who had been Treasurer of the Cardinal's Household, was promoted to succeed Sir Thomas Boleyn as Treasurer, and the old Cofferer who had served since the days of Henry VII, John Shurley, was succeeded by a younger official who had been trained up from his youth in Chamber and Household administration, Edmund Pekham. He had been employed under Sir John Heron, the greatest of all Treasurers of the Chamber, and on the death of that officer in 1523 he had performed his duties *ad interim* until Sir Henry Wiat was appointed Treasurer of the Chamber. Pekham had thus proved his capacity and he remained a trusted civil servant for many years.

The new orders for the governing of the Household were completed by the close of December 1525. They consisted of a series of statutes, lists of the persons ordinarily to be employed in Court, with the wages and diets or amount of provisions assigned to them daily, and regulations as to the number of servants each officer of the Household was permitted to employ in Court. The statutes which laid down the principles of the reforms appear to have been completed and signed by the King as early as August 1525,[26] but the details of the arrangements took a long time to settle, and it was not until the King and the Council met at the Palace of Eltham between the 8th and 22nd of January, that the whole was completed and ordered to be carried into effect.[27] The 'Proem' that precedes the statutes states succinctly their origin and purpose :

'The King's Highness soon after his first assumption of

[24] He died a few months later, April 15, 1526, aged about sixty-six (*D.N.B.*).

[25] B.M., Cott. MS., Vesp. C. xiv. 265.

[26] *L. & P.*, iv. 1572, August 15, 1525. 'The book of Statutes of the Household signed by the King is in the Cofferer's custody.'

[27] Hall, *Chron.*, p. 707. 'The Cardinal came to Eltham the viij day of January and tarried there till the xxij day. In which season the Cardinal, and other of the king's council, sat for a direction to be taken in the king's house.'

his crown and dignity royal was enforced and brought unto the werres, wherein his Grace . . . hath much travailed and been occupied in such wise as many of the officers and ministers of his household being emploied and appointed to the making of prouisions and other thinges concernyng the werres the accustomed good ordre of his saide householde hathe ben gretly hindred and in maner subuerted Whiche by litil and litil is nowe cõmen more and more unto an indirect course ferre from the goode constitutions of olde tyme and sundry seasons nowe of late prouided.'

There were three principal causes for the disorder in the Court—the excess of officers without stated employment, the absence of the skilled accountants of the Household on other business, and the difficulties caused by purveyance for the army. The first cause concerned the Chamber or that part of the Court 'above stairs' more than it did the Household 'below stairs.' Preferments to Court offices had been distributed during the early years of Henry VIII's reign with such a lavish hand that they were often sinecures and their holders had no real duties. The offices of carver, cup-bearer, usher and sewer were bestowed as an honour or in reward, without any care for the actual number of the persons required to perform the services. The payment to the many supernumeraries of the comparatively small fees attached to their appointments did not impose a very great charge, but the maintenance of them and their servants at Court involved an excessive drain upon the supply departments, and permitted the presence of an immense number of hangers-on in the purlieus of the Court, who had nothing to do and were constantly brawling. Many gentlemen who held these sinecure cup-bearerships, usherships or sewerships were usually resident in the country and rarely came to Court, but others who had been actively employed in their earlier years still hung on long after their employment had ceased, and lived in a squalid way on the scraps that fell from the profusion of the circles immediately surrounding the King. Hall tells us something of this side of the story: 'It was considered that the great number of the yeomen of the guard were very chargeable and that there were many officers stricken in age which had servants in the Court and so the King was served with their servants, and not with his own servants, which was not thought convenient.'[28] The character that

[28] Hall, *Chron.*, p. 707.

these hangers-on bore in the eyes of the people may be judged from the general forebodings when they were dismissed : ' Alas what sorowe, & what lamentacion was made when all these persones should depart the court. Some said that poore seruauntes wer vndoen and must steale, some said that . . . for them was nothyng more set out at the dresser, and it was greate charitie to fynde them . . . Other said that now they would polle and pill in their countreys, & oppress the poore people, thus every man had his saiyng.'

The necessary beginning of the reforms was to get rid of those servants who were not performing essential duties, and the task of determining who were to be dismissed was entrusted to Sir Henry Guldeford. He was instructed ' to make view, search and report of the sufficiency, ability, demeanour and qualities of all such persons as be officers, ministers and servants in the household and chambers ; to the intent that such of them as shall be found impotent, sickly, unable or unmeet persons to occupy the same rooms may be known ; and their names and defaults put in writing.'[29] The King did not intend to dismiss them without any provision for their sustenance unless their demerits were such as to make them unworthy of a pension. To such as were deserving an annuity proportionate to their rank was assigned, to terminate at the pensioner's death. The persons appointed to fill the appointments that thus became vacant were to be chosen for their competence, ' especially those which, beginning in low rooms, be accustomed by course to ascend unto higher.' This was the principle of promotion by seniority which was traditionally prevalent in the Household, and which was thus sanctioned for continuance. The greatest number of dismissals took place among the men who formed the King's guard. Their numbers had increased excessively during the wars, and now they ' not only do occupy the greatest part of [the king's] hall and likewise of his lodgings near about the court, but also do entertain every of them one or two lads or simple servants, to whom they be not able at their own charge to give sufficient and honest living, and consequently do greatly increase the annoyance, infection and confusion in the Court.'

It was among these disorderly guardsmen who, in some cases, were foreigners picked up into the King's service during the wars, that the factions and brawling that made the Court

[29] Ordinances of Eltham, cap. 31.

so scandalous to the citizens were peculiarly prevalent. Their numbers were now drastically reduced, and those who were dismissed to their dwelling places in the country were granted the nominal appointment of 'yeomen of the Crown' and a pension of *6d.* or *4d.* a day, according as they held other offices from the King, like castle-ward, porter, jailer and so on. They were to be ready 'to serve the King when his Grace shall command them, [but] after the death of any of the said residue of the guard, not appointed to attend daily upon the King's person, the pleasure of the King is their wages shall cease and be extinct, and no further be granted of new to any other person.'[30] Besides the guard three classes of servants were considerably reduced. The Gentlemen Ushers were divided into three classes, four to wait daily at Court, eight to wait quarterly, and the remaining one hundred to be relieved of all duties. Six of the Sewers of the Chamber were retained in Court and the remaining thirty-nine were pensioned. Fifteen Grooms of the Chamber and Wardrobes were retained and fifty-four pensioned.[31]

An establishment of the Court was drawn up containing the names and offices of those who were allowed lodging and who formed the 'ordinary' of the Court. The undesirable practice that had grown up, of performing duties by deputy, was stringently prohibited, and from 1526 onwards there is no doubt that the prohibition was enforced and that alone among the departments the Household offices were always served by their holders. 'No manner of servants shall do any service within the King's house in any room or office by any substitute or other servants under them, but such only as be admitted the King's servants in the said rooms and offices, nor none of them to have any manner of servants in their offices under them, but such as by the head officers of the house, and the King's and Queen's chambers, after the accustomed ancient order of the same house, shall be admitted and allowed.'[32] The regular attendance of officers upon their employments was also stringently guarded. 'It is the King's commandment and pleasure that as well the head officers as all other officers and ministers of household, as also all such persons as be appointed to attend and wait in the King's chamber, whose names be comprised in a book signed with the King's hand, give their

[30] Ordinances of Eltham, cap. 32.
[31] *L. & P.*, iv. 1939 (8).
[32] Ordinances, cap. 40.

attendance every man in his room accordingly; and the said attenders in no wise depart from the Court, unless they be licensed by the King, my Lord Chamberlain, or the Vice-Chamberlain for the King's Chamber; and by the Lord Steward, Treasurer and Comptroller for the Household . . . and that not only substantial comptrolment be made daily of the said attendance, but also offenders in not doing their duties to be corrected by the discretion of the said officers, as well by the checking and defalcation of their wages, and otherwise accordingly.' [33]

We do not possess the actual book of his 'ordinary' signed by the King, but there is among the 'Letters and Papers' a draft of it prepared for Wolsey, which contains his amendments written with his own hand.[34] There is also a second contemporary list,[35] shewing the offices held by those appointed to be lodged 'ordinary' and those lodged 'at the King's pleasure.' In each list there occurs among the 'ordinary' 'Mr. Secretary'; and in another paper [36] he is included among the 'Servants of the Chamber daily waiters,' and the following paragraph is added :—'It is to be remembered that all the foresaid personages have servants to attend upon them in the King's house according to their estates and none other to be admitted.' From the office of 'Mr. Secretary' and his attendant servants have sprung the departments of the Secretaries of State, with all the employees who form the core of the permanent Civil Service. But the thread back to their Household origin has never been broken, and here in the Ordinances of 1526 we find the first formulation of the regulations that govern the Civil Service to-day. The admittance to office by oath administered by some higher official, the performance of duties in person, the demand for regular attendance save when leave of absence is granted by the proper officer, the usual right to promotion by seniority and the privilege of a gratuity or annuity when incapacitated by sickness or old age—all these are to be found in Wolsey's Ordinances and can be traced in a constant line of descent, with only a gradual alteration of phrasing, down to the regulations of modern times.

While the greatest disorder in the Chamber was caused by the employment of an unnecessary number of officials, that in the Lord Steward's department or Household proper arose

[33] Ordinances, cap. 4.
[34] *L. & P.*, iv. pt. i. 1939 (4).
[35] *Ibid.* 1939 (5).
[36] *Ibid.* 1939 (7).

from the opposite cause, the withdrawal of trained officials from their household functions to assist in carrying out the business of government. This had abundant precedent in earlier reigns, but it left the management of the supply departments to be carried on by substitutes over whom there could be no effective control. The parallel cause of disorder, the employment of purveyors outside their usual service, only operated in time of war, but it caused bitter grievances to the King's subjects, who always found the demands for purveyance burdensome even in times of peace. The employment of the usual household purveyors to manage the commissariat of the King's armies and fleets under the same warrants as those they used to provide supplies for the feeding of the Court, though it was entirely according to mediæval precedent, was a method unsuited to a more modern age and caused grievous discontent. There is abundant evidence for the extent to which these practices were employed during the earlier years of Henry VIII's reign, and the 'Letters and Papers' calendar very large numbers of accounts derived from Household officers employed on special missions. An instance or two will suffice to illustrate the kind of tasks they performed. William Hatteclyff came of a family that had long been employed in the Household, and his father, William Hatteclyff the elder, rose through various offices in the Compting-house of Henry VI to die in harness as the Private Secretary of Edward IV. His son saw his earlier service in the accounting department of the Kitchen and from the post of Chief Clerk of the Kitchen was promoted to the Compting-house or Board of Greencloth under Henry VII. But he was employed by the King in the general affairs of government and not in the domestic business of the Court. He was the accountant officer of the commissioners who collected the fines and compositions of those who had been implicated in the Cornish rebellion,[37] and he was for some time engaged with Sir Henry Wiat in reorganising the financial business of the Irish government.[38] Under Henry VIII, while still continuing to hold his office as clerk of accounts in the Household, he was employed as victualler of the King's forces sent to Guipuzcoa and against the Scots and had the handling of large sums of money to be expended in stores.[39]

[37] *Letters and Papers of Richard III and Henry VII*, ed. Gairdner (Rolls Series).

[38] *Ibid.*

[39] For all the following details reference should be made to the indexes to the *Letters and Papers of Henry VIII.*

In 1513 along with Miles Gerrard he organised the transport of the King and his army to the war in France, and further instances of his employment could readily be multiplied. Hatteclyff died in 1519 and his widow and executrix Isabella then received quittance not only for his army accounts, but also for moneys he had received in the ordinary course of Household business from the sale of hides and tallow from the cattle slaughtered for its supply. His son, Thomas Hatteclyff, was, like him, brought up from childhood in Household employ and in the campaigns of 1520 to 1525 was frequently entrusted with large sums as an army victualler. After the reforms he was in 1532 threatened with dismissal from the Household for malversation, but he was pardoned and in 1536 had risen to be the senior clerk of the Greencloth. Roger More, clerk of the Larder, hired and paid the waggons and carts employed in the expedition to Tournai in 1513, and John Rycroft, sergeant of the Larder, provided malt, wheat, beans and oats for the army. John Myklowe, clerk comptroller of the Household, and John Shurley, the Cofferer, provided general victuals and tents, and when the campaign was over, disposed of the unexpended remainder by sale to the merchants of the Staple at Calais. Similar arrangements prevailed for the campaigns of 1523–4, and Edward Weldon, clerk of the Kitchen, provided victuals for the army under the Lord Admiral along with William Brysewood, a merchant of Calais who was one of the usual Household purveyors. The list might be extended indefinitely by tracing out the names of the lesser employees of the Household whose names appear in the many extant army accounts. While they were absent from Court their regular work had to be done by deputies or subordinates, and the result was a chaotic breakdown of economical management and an increase of waste and extravagance that made the Court a scandal to the people. More than that, it imposed an unbearable strain upon the King's coffers which had to make up the deficit if the creditors were not to remain unpaid and raise a pitiful clamour round the Court gates.

From 1526 onwards the employment of Household officers outside their regular duties appears to have largely ceased,[40] and an organisation was introduced by written regulation into the supply and accounting departments that were previously regulated almost wholly by tradition. The Ordinances of

[40] Clerks of the kitchen were, however, employed as victuallers for the armies in the wars at the end of Henry VIII's reign.

Eltham do not contain detailed instructions for the various supply offices, but seem to convey either a mere admonition to adhere more closely to tradition or to imply the issue of separate statutes for each office thus : 'It is ordained that the butlers of ale give their attendance in their office in serving of the King and his Household as the officers of the cellar have in charge, and according to such rules and ordinances as be made for the same.' Again, 'It is ordained that the clerks of the spicery, or two of them at the least, be daily resident in their office, to see the issuing and coming in of all manner of spice, wax and other, as it may be used to the King's most honour and profit ; . . . according to the ancient customs and rules of the King's Household.'[41]

The reformation was completed and the organisation of every office was fully marked out by the Ordinances of fourteen years later, prepared under the direct supervision of Thomas Cromwell and issued in 1540.[42] If we regard these as embodying in writing the customs referred to in the Ordinances of 1526, we have material to study the organisation of the supply and accounting departments with a fullness of detail that lack of space here renders impossible.

The Compting-house was the sovereign office of the Household, which not only kept charge of all the treasure and made up the accounts, but also looked after the discipline and efficiency of all the employees 'below stairs.' Its business was conducted at a board at which sat the head officers of the Household, and just as its great elder brother, the accounting department of the state, was called the Exchequer from the cloth that covered the table at which its officers sat, so the accounting department of the Household was called the Board of Greencloth. In the disorders of the fifteenth century the higher officers had ceased to be regular in their attendance at the Board, and its management fell into the hands of the clerks. The

[41] Ordinances, caps. 9 and 10.

[42] These ordinances of 1540 were re-enacted in almost identical terms in Queen Mary's Household reforms of 1554, and from that date down to the end of the eighteenth century remained practically intact as the constitution for the Household 'below stairs.' Even in the Instructions of March 12, 1783, whereby the cumbrous old system was swept away and a more modern system of accounting introduced, there are still echoes of the phrases first used by Thomas Cromwell. The Ordinances of 1540 are printed in *Ordinances and Regulations* (Soc. Antiq.), pp. 228–240 ; those of 1554 have not been printed, but there is a copy of them among the Lord Steward's records, L.S., 13/279, in a volume containing also copies of orders relating to the reformation of the Household down to the reign of Charles I. My reference to the Instructions of 1783 has been to a MS. in the possession of Lord Sackville.

Ordinances of 1526 attempted to remedy this by ordering that 'in times convenient the head officers, that is to say the Lord Steward, Treasurer and Comptroller, or two of them at the least, calling to them the Cofferer and all other such officers of the Household as they shall think good, assemble themselves in the Compting-house, not only to see and consider the state of the King's house, but also substantially to reason, debate and foresee' the estimates for the following year.[43] The Ordinances of 1540 went a stage further to enforce the ancient statutes of Edward III,[44] and directed that the Lord Great Master (as the Steward was now called),[45] 'the Treasurer and Comptroller of the King's Household, or one of them at the least (other great causes of Council not letting) shall be daily in the Compting-house between the hours of 8 and 9 in the morning, calling unto them the Cofferer, Clerk of the Greencloth and one of the Clerks Comptrollers at the least, the other being occupied in the King's service otherwise.'[46] Neither of these orders appears to have been capable of enforcement, for the head officers were far too busy in employments of state to give much attention to Household matters. In practice, therefore, the Cofferer was the principal officer present at the Board and was assisted by the clerks in a strict order of precedence. In 1526 the senior were still, as in the time of Edward III, the two Clerks of the Greencloth, and they were assisted by the Clerk Comptroller, but about 1533 a second Clerk Comptroller was added, and before or during Cromwell's reforms in 1539–40 new offices were created. These were the 'masterships of the Household.'[47] The masters, who were four in number, were special assistants to the Lord Great Master, and immediately junior to the Cofferer, and the holders of the offices of Clerks of Greencloth were promoted to the new appointments. In the reforms of 1554 two of the masterships were abolished.[48] In

[43] Ordinances, cap. 2.

[44] By virtue of the Act, 32 Hen. VIII, cap. 39.

[45] 'Liber Niger Domus Regis Edw. IV' in *Ordinances and Regulations* (Soc. Antiq.), p. 65. 'The Steward and Thesaurere or one of them ys bounden to be in the countyng-house at the audite of the dayly accomptes.'

[46] *Ordinances and Regulations*, p. 228.

[47] Ordinances of 1554 in L.S. 13/279. 'The MS. of William Dunche,' *Genealogist*, N.S., xxx. pp. 18 *sqq*. 'Thomas Weldon furst mr of houshold and willm Thynne Secound mr for the king to sitt att one table and wt them the king's Chaplens daylye waytors wt other gentill. and to be serued wt ij mes' of meat. James Gaige third mr of houshold, Edward Shelley iiijth mr of houshold for the quene to sitt at one table.'

[48] By Act of Parliament, 1 Mar., St. 3, cap. 4.

the latter part of Elizabeth's reign one of the remaining masterships and one of the clerkships of controlment ceased to be filled, and the Board of Greencloth assumed its permanent shape. The Compting-house had a subordinate staff of employees to assist in carrying on its business, including a sergeant usher, a yeoman usher, a groom usher and certain messengers, and they were responsible for keeping the chamber in which the Board sat, providing writing materials, etc., and guarding the records and treasure that were kept within the Household. On progress they also looked after the two carts allowed to carry the necessary furniture of the Compting-house, which continued to follow the King as the Chancery and Exchequer had done in earlier centuries. It was not until 1626 that the Compting-house was fixed at Westminster.[49]

The Board of Greencloth had an immense amount of business to transact in connection with its negotiations for the supply of victuals and other provisions, its financing of those supplies, and the audit of the accounts of the Household departments and their preparation in the proper form for annual submission to the Exchequer. There was also incessant business in connection with the management of a large staff, the allowances of charges upon the stipends of the employees for the benefit of their creditors and a magisterial control of their affairs that involved the interpretation of many nice points of Household law. Until the beginning of Elizabeth's reign no register at all appears to have been kept for the recording of the decisions taken, but there are extant among the records of the Lord Steward's department the second and third volumes of a series of Household Registers that probably began with the reforms that were carried out by Burghley and Winchester in 1562–3.[50] The first volume has disappeared, but references made to it in the second volume[51] shew that it had an identical character with those that have survived. The third volume continues the series to the outbreak of the Civil War. These volumes come at the very end of the period, but they are of great value for our purpose, for a study of their contents enables us to perceive the great variety of work that had to be done by the Board. The second volume contains a register of the

[49] P.R.O., L.S., 13/226. A thick folio volume of 352 leaves bound in parchment boards of the mid-eighteenth century endorsed in the hand of William Bray, Clerk of the Greencloth to George III. 'Records, No. 1, 1598–1630.'

[50] B.M., Lans. MS., vii. no. 53, and Lans. xxi. nos. 62–67 etc.

[51] L.S., 13/226, f.

Compting-house from November 1598 to 1630, and the entries are of very miscellaneous interest. They refer to all kinds of matters, from charges upon the wages of servants of the Household for money lent, warrants for the taking of carts and recognizances for the keeping of ale-houses within the Verge, to detailed orders for the good government of the Household, reports of Royal Commissions and particularly interesting details as to prices.

The Compting-house had its own systems of accounting and the origins of some of the governmental practices of the present day may appropriately be sought there. Attention has already been drawn to the 'ordinary' or list of officials with their yearly fees, who were permitted to have lodging within the Court; such a list was drawn up in 1455 for the Household of Henry VI,[52] but the regular preparation of the establishment appears to date from the reforms of 1526. According to traditional usage all those who had lodging at Court ought to take all their principal meals together in the King's hall, they and their servants bring grouped together in messes and each mess being entitled to a livery of so much victuals for each meal. With the progressive change of manners that went on during the fifteenth century, the regular keeping of the King's hall had fallen into disuse, and it was only upon great occasions that the King sat at his board's end and feasted with his courtiers and servants according to the ancient custom. St. George's Feast at Windsor was in the sixteenth and early seventeenth century the most regular occasion for keeping hall when the traditional ceremonies were observed. The King usually dined and supped in his privy chamber with his personal attendants, and the head officers of the Chamber and Household in their lodgings kept tables to which visitors to the Court were invited. The tendency was to multiply the tables that were kept in chambers and thus to increase opportunities for waste and extravagance. The Ordinances of 1526 therefore strictly limited the number of tables that might be kept outside the hall, leaving the mass of the employees still to be fed together in common.[53] 'Forasmuch as by reason that sundry noblemen,

[52] B.M., Cott. MS., Cleop. F. v. f. 170. Printed in *Ordinances and Regulations*, pp. 15–24.

[53] A minor result of the reforms of 1526 was that many of the less important servants of the Court who were not employed in menial offices were put upon board wages and made to find themselves. A list of those having board wages in 1540 was printed from the MS. of William Dunche in *The Genealogist*, N.S., xxx. pp. 18 *sqq*.

gentlemen and others do much delight and use to dine in corners and secret places, not repairing to the king's chamber nor hall, nor to the head officers of the household when the hall is not kept, by reason whereof . . . such viand as is allowed to be spent in the King's house, appeareth not to be employed and dispensed to the King's honour ; it is therefore ordered and appointed that . . . there shall be a board in [the King's dining chamber] to be served with the service called the King's service . . . ; the lord chamberlain likewise to keep his board in the outer chamber, the vice-chamberlain, also captain of the guard to keep their messes . . . and the residue of the King's council under the degree of barons, with the master of the King's horse and henxmen, they shall be placed with the lord steward, treasurer or comptroller, or they once furnished, with the cofferer, clerk of the Greencloth and other officers of the King's house. And the King's highness straightly chargeth and commandeth that no nobleman, spiritual or temporal, nor other of his counsellors . . . do use to eat at meals, or be suffered so to do in other places than is before assigned and limited.' [54]

From this limitation of the number of tables to be kept there flowed consequences of great importance. The total number of persons allowed lodging in Court being limited, and the number of tables to be served being known, there only remained to be fixed the amount of provisions, beer and wine to be supplied to each mess and the allowance to each person in his chamber. This was a traditional allowance known as 'Bouge' or 'bouche of Court,' that consisted of firing, candles, bread and wine, and was made to most persons above a menial condition who lodged in Court. The amount allowed was traditional according to the rank of the recipient and was shared by him among his servants. The total amount of commodities to be furnished was considerable, as may be noted from a single example : ' The secretary and two vice-chamberlains. Every one of them being lodged within the court, in the morning, one chet loaf, one manchet, one gallon ale ; for afternoon one manchet, one gallon ale ; for after supper, one chet loaf, one manchet, one gallon of ale, dim' pitcher wine ; and from the

[54] Ordinances, caps. 52, 53. The keeping of open house at Court seems to have come to an end immediately after the Restoration. Evelyn writes under date August 20, 1663. ' I dined at the Comptroller's [of the Household] with the Earl of Oxford and Mr. Ashburnham : it was said it should be the last of the public diets or tables at Court, it being determined to put down the old hospitality.'

last day of October unto the first day of April, three links by the week ; by the day, one pricket, two sises, dim' pound white lights, four talshides, four faggots and [certain coals].'[55] The number of persons entitled to bouge of Court and the amount allowed to each being fixed, the officers could deal with their most difficult task, the arrangement of the amount of provisions to be allowed daily to each mess.

The preparation of the bills of fare for each mess and their collection and arrangement in the ' Book of Diet ' involved a great deal of trouble, and the later Household reforms of the period were mainly concerned with alterations in the allowances. It is not certain whether such a Book of Diet was drawn up in 1526, and a search for a surviving copy of it, if it ever existed, has proved unsuccessful ; but we have various extant copies of the elaborate lists drawn up during the reforms of 1539–40 and in the subsequent years of Henry VIII's reign.[56] Into the details of the diets we need not enter, but it may be remarked that a careful study of them in contemporary copies and not in the later transcripts that have alone been consulted would undoubtedly be of value not only to writers of social history but also to scholars who are interested in the English language in the Tudor period. Knowing the number of messes to be supplied and the daily allowance to each, the officers were in a position to comply with one of the most important directions of the Ordinances of 1526. ' It is the King's commandment and pleasure that in times convenient the head officers calling to them the Cofferer and all other such officers of the household as they shall thinke good, assemble themselves in the compting-house . . . to reason, debate and foresee how all manner of provisions, especially in grosse, that is to say, wheete, wines, beefes, muttons, lynges, codds, salmonds, and other salt stoore, wax, spices and fewell, may . . . be provided for that year following : reasoning, devising and

[55] *Ordinances and Regulations*, p. 162.

[56] *Ibid.* pp. 171–197, *v.* p. 174. ' A declaracion of the particular Ordinances of Fares for the Diets to be served to the King's Highnesse, the Queen's Grace, and the Sides, with the Household.' This immediately follows a list of the Ordinary which from the names of holders of offices can be dated as of 1544. In the MS. of William Dunche, ff. 21*a* to 54*b*, is a full list entitled ' The Ordynary of the household wth the allowunce of their wages & mess' of meate as followt.' This supplies us with a complete establishment and Book of Diet. It dates from 1540 and was copied out in that year by William Dunche who then held some minor appointment under the Board of Greencloth and in 1546 was appointed to be Auditor of the Mint. (*L. & P.*, xxi. 241.) For notes of other copies see *L. & P.*, xvi. no. 394.

concluding . . . of and upon the rate, proportion, quantitye and qualities of all and singular such provisions in grosse as shall by *estimation* suffice to serve the King's house for that yeare, registering the same in some bookes to remain of record in the said compting-house.' Such estimates having been prepared the officers are directed to devise how 'the said provisions for the King's most proffitt and advantage may be made : and that done, then to consider what personages shall be most meete and able to take upon them the charge of the said provisions . . . and to deliver unto them in writeing their rates and proportions, with such a convenient prest of money for makeing the said provisions as the said officers shall thinke good.'[57] 'It is also the King's pleasure and express command that such officers and other persons as shall be appointed and authorised to make provision of fresh acate,[58] as well for flesh as fish, be not only charged and instructed by the said officers how . . . they shall chuse and provide the best and most seasonable vitayles of every sort at prices reasonable . . . but also to bring the same, soe provided, into the King's house in large proportions at due time before it shall be spent.'[59]

The officers not only estimated the amount of provisions that would be required to supply each mess during the coming year in order to ascertain the gross amount of each article to be provided ; they also carefully worked out the money cost for each mess and placed this out in detail under various headings. The totals were then made up, some of them being noted as fixed and others arrived at 'by estimation.' We have such an elaborate list prepared during Cromwell's reforms of 1539-40[60] which is directly parallel with the estimates that are now prepared annually by Government departments. The phrase 'by estimation' is repeatedly used throughout the paper, though never with regard to sums like fees or wages, the exact amount of which was known beforehand. A part of the document is headed 'An Estimate-View of such requisite Provicions and other Incidents as be to be had and provided for the expences of the King's Household, which be not rated nor valued within the Diets.' A similar but more summarised document

[57] Ordinances, cap. 2, 'For Store.'

[58] Acate = achat, purchase (*cf.* the modern 'cater'). Fresh meat and fish were purchased from day to day. The greater part of the meat used was salted.

[59] Ordinances, cap. 3. 'For Fresh Acates.'

[60] *Ordinances and Regulations*, pp. 192–7.

dates from [1 April] 1540 and is called, 'An Estimate of the expenses of the King's Household, 1 October 31 [Hen. VIII] —1 October 32 [Hen. VIII] and also of such ready money as shall be received by the Cofferer within the said term for the payments of the same.'[61] In later years the phrases are regularly used and 'estimates' are found not only for Household expenditure but also in other parts of the business of the State. The phrase that I have italicised in the above passage from the Ordinances of 1526 is the exact English translation of French words employed more than a century before in connection with deliberations as to the cost of the Household. Thus in 1401 we find the statement 'Les despenses del houstiel de nre dit sr le Roy samontent par estimacion . . .';[62] but this would appear to indicate merely a guess at their amount for the current year rather than a careful calculation of the sum required for the coming year. So ten years later the term is used again in this wider sense, when it is stated that on Thursday, 19 March, 12 Hen. IV, 'En presence de nre dit seignur le Roy et des ditz seignurs feut demonstree en une cedule lestimacion du subside des layns . . . le quel subside selone mesure lestimacion sextende par le dit temps a xxxm li.'[63] Other instances of this usage have been found in the fifteenth century, but in no instance does it approach the modern usage of the term 'estimate' in connection with future expenditure for which provision is to be made. The employment of the term under Henry VIII, therefore, appears either to be the first or, at any rate, a very early instance of what closely approximates to the modern usage; for there is no doubt that in 1526 elaborate calculations of the future cost of the Household were made, and for 1539–40 we have the estimates surviving in what nearly approaches the modern form.

Promotions to the Board of Greencloth were made according to a very carefully regulated system of seniority similar to the modern system prevailing in the army and navy. There were three principal offices of the Household which were called 'Accountants,' the Kitchen, the Avery or office that dealt with the supply of hay, straw and oats to the Stable, and the Spicery. By the custom of the Household, when a vacancy occurred on the Board of Greencloth the senior of each of the above offices in turn was promoted to fill the junior post at the

[61] B.M., Cott. MS., Appendix, xxviii, f. 76. [62] *Proc. of P.C.*, i. p. 154.
[63] *Ibid.*, ii. p. 7. For these references I am indebted to Professor Claude Jenkins.

Board, the second Clerkship of Comptrolment. The three offices had to take turns, but the Kitchen always maintained that they were senior to the other two, and frequently it was successful in its claim, for more Kitchen clerks were promoted to the Board than from other offices.[64] The only offices employing clerks besides the Kitchen, Avery and Spicery were the Bakehouse, the Acatry, the Poultry, the Pastry, the Scullery, and the Woodyard, and of these the Pastry was the junior. The sergeants of the Bakehouse, the Pantry, the Cellar (under the rule of which were the Buttery and Pitcherhouse), the Livery (under which was the Laundry), the Larder, the Acatry, the Poultry (under which was the Scaldinghouse), and the Woodyard, received higher wages than the clerks, but they were not in the same line of promotion. When, therefore, a promotion took place to the Board of Greencloth, a vacancy was created in the clerkship of the Pastry and one of the clerks assistant was promoted to fill it. The subsidiary offices mentioned above, together with the Wafery, the Chaundry and the Confectionery, which were under the Spicery, had neither sergeants nor clerks but were officered only by yeomen, grooms and pages. The sergeants were recruited by the promotion of yeomen, and the yeomen from the grooms, as can be traced in the earliest surviving cheque roll of the Household among the Lord Steward's records, which only dates from the reign of James I.[65] There were two ladders of promotion, therefore, one for the clerks leading up to the Cofferership, the highest office in the Household obtainable by promotion, and the other ceasing at the comparatively humble office of sergeant. There are interesting possibilities of tracing the traditions of army promotion back to this Household system from which the modern Household regiments sprang, and to some investigator of army history they may be commended.

Just as, in fact, the *Curia Regis* of the early mediæval period is the source from which the modern machinery of Government took its rise, so the Royal Household of the Renascence is the source of many of our traditional ways of doing things to-day. It cannot be claimed that the investigation of these matters is of the same historical importance as

[64] B.M., Lans. MS., 86, no. 50, f. 119. Memorial of Gregory Lovell, late Clerk of the Avery to Lord Treasurer Burghley (1598). A searching inquiry into Household abuses was at that time in progress under the direction of the Lord Treasurer.

[65] P.R.O., L.S., 13/6.

the working-out of the relations of the Privy Seal or the Signet to the Chamber and Household in the fourteenth, or still less to the rise of the Chancery and the Exchequer from the same origin in the twelfth century, but it involves tasks and yields results of a not dissimilar sort and is therefore worthy to be undertaken.

ARTHUR PERCIVAL NEWTON.

THE COMMONS' PRIVILEGE OF FREE SPEECH IN PARLIAMENT

The antiquarian movement of the Elizabethan and Stuart ages, which was graced by such scholars as Cotton, Coke, D'Ewes, and Prynne, conjured into mediæval history a golden age of parliamentary liberties. Liberty may have been fully justified of her apostles, but history was set in bondage to a myth, the influence of which has not easily spent itself. Even Stubbs, massive as his scholarship was, gave new life to an old creed when he wrote that never before and never again for more than two hundred years were the commons in parliament so strong as they were under Henry IV.[1] And though to-day the Lancastrian experiment of our text-books be suspect, still the evidence that led Stubbs to believe in it has not been re-interpreted, so that one who sets out to trace the history of freedom of speech in parliament under the Tudors, finds himself—with a traditional background to his subject which is unconvincing—compelled first to attempt a re-fashioning of its earlier history.

Whether for the earlier or the later period, the task is not easy. In the first place the evidence is so sparse. The commons' journal does not appear before 1547 : indeed, for a satisfactory narrative of parliamentary proceedings, we must wait until 1571. Then the vast mass of documents in the *Letters and Papers* of Henry VIII's reign is for the parliamentary historian little better than a wilderness ; and as for the domestic discussions of the commons in the Middle Ages, they are wrapt in a gloom pierced but by a ray of light from a narrative of the Good Parliament, only recently discovered.[2] A negative argument is thus the most dangerous of expedients, and

[1] *Const. Hist.*, iii. p. 73.

[2] An Anominal Chronicle of St. Mary's Abbey, York, which is being edited for the Manchester University Historical Series, by Mr. V. H. Galbraith. I am greatly indebted to Mr. Galbraith for placing his transcript of the chronicle at my service.

positive evidence is so partial as to be misleading. Nor is this the only difficulty. The word 'freedom' itself is a term whose content is unfixed, depending not so much upon the nature of any restraint, as upon the nature of the reaction to restraint. Its meaning varies for different ages and individuals, and consequently any study that takes account simply of precedents, becomes a study of the letter which kills the spirit. Inevitably we must sweep into our review broader questions of parliamentary development.

However, despite the inaccuracy involved in delimiting freedom, we may for convenience' sake assume that freedom of speech in the house of commons was achieved when the house became the sole arbiter upon the conduct of members in parliament, save only where treason or felony had been committed. It is true, such freedom was not fully achieved until after the days of the Tudors, but the important point for us is that, to control members, the house needed the power to imprison and fine, that is, to act as a court. This fact enables us at the outset of our essay to stress the fundamental distinction between the power of the commons in modern times and in mediæval; for whatever may have been the corporate spirit of the commons in the Middle Ages, they certainly possessed no jurisdiction of their own as a court. They could defend their privilege of freedom from arrest, only by petitioning the king, or the king and lords. Their speaker had no power to procure a writ of privilege by his warrant, and they themselves could not summon an imprisoned member and his gaoler before them, as they did later. They had no control over elections, nor could they license any member to depart early from the parliament; and even on such a purely domestic matter as the time of their meeting, the speaker had at least once to petition the king to issue an order.[3] It was only in Tudor times that the commons began to assume these powers and to fashion a new creed which taught that they were themselves a court as were the lords, and that though the high court of parliament was but one, yet its nature was dual; so that it was a sounder remark than either he or his irate colleagues imagined, when Arthur Hall, a factious Elizabethan, once scornfully said that the commons were a new person in the Trinity.[4] But if the

[3] *Rot. Parl.*, iii. pp. 523*a*, 530*a*, 542*b*, 572*a*; iv. pp. 357–8, 453*a*; v. pp. 7*b*, 239–40, 374–5; vi. pp. 160–1, 191*b*.

[4] Townshend, *Hist. Collections* (1680), p. 260.

commons possessed no right of discipline over members in the Middle Ages, the right must have reposed somewhere, and it reposed in the king.

With this fundamental distinction made, we may proceed to inquire whether a privilege of free speech really existed before the sixteenth century. But first it is as well to lay the ghost of Haxey's case, which has troubled us too long. Haxey was condemned by the lords in parliament in 1397, because he had delivered a bill to the commons complaining of extravagance in the king's household. The judgment was reversed in Henry IV's first parliament, and into the commons' petition then made on his behalf, with its mention of the 'Libertes de lez ditz Communes,' historians have read a declaration that his condemnation was a breach of parliamentary privilege. It was a hasty interpretation. In the first place privilege of free speech covers members alone, and there is neither any evidence that Haxey sat in parliament, nor any need to suppose that he did, in order to explain his putting a bill into the commons. Moreover, privilege was never a plea against a charge of treason; and in reality the petition in favour of Haxey was either grounded upon the irregularity of the trial, since, though not a peer, he was tried by the lords as a court of first instance; or it was grounded upon the contention that the offence was not treason. In fact it should be coupled with the other petitions in the parliament of 1399, for reversing the newly-made treasons of Richard II's reign. As for the phrase 'Libertes de lez ditz Communes,' which has been so great with meaning in modern eyes, it was a commonplace of the time: 'Libertes' did not include freedom of speech, and 'Communes' was not restricted to the representatives in parliament.[5]

Haxey's case, then, does not prove the existence of a privilege of free speech, and our inquiry remains open. In pursuing it we must take care to distinguish between any formal privilege, and the practice of the time. So far as the former is concerned, our conclusions must be based upon the entries in the rolls of parliament of the protestations made to the king by the speaker; and these fortunately are full enough, during the critical reigns of Richard II and Henry IV, to be of service. Mediæval protestations divide themselves into two classes, the first usually made down to the year 1413, the second thereafter. For the moment our concern is with the

[5] *Rot. Parl.*, iii. pp. 339, 341, 407, 430, 434.

former. They contained two sections, either taking precedence in the entry, of which one was the speaker's request to be allowed to amend his report of the commons' proceedings should he by chance misrepresent them. In all probability the formal character of legal procedure gave rise to the request, and an analogy may be found in the right that a mediæval litigant enjoyed of amending his counsel's plea.[6] But it was not legal formality alone that troubled the speaker. Occasionally he showed that his real anxiety was to transfer all responsibility for his speeches to the commons. For example, John Doreward in 1399 prayed 'qe ceo q'il deust ensi parler en cest Parlement pur les dites Communes ne serroit pris q'il le face de son propre motif ou voluntee singulere.'[7]

The other section of these early protestations was a prayer that if the commons—or often if the speaker—should say anything displeasing to the king, or infringe his prerogative, it should be forgiven, since the offence would not be intentional. I quote an example from 1378: 'Et primerement pur la dite Commune, qe si par cas il y deist chose qe purroit soner en prejudice, damage, esclaundre, ou vilanie de nostre Seigneur le Roi ou de sa Coroune, ou en amenusement de l'honour & l'estat des grantz Seigneurs du Roialme, qe ce ne feust accepter par le Roi & les Seigneurs, einz tenuz pur nul, & come rienz n'ent eust este dit; desicome la Commune n'est en autre volentee, mais souvrainement desirent l'oneur & l'estat de nostre Seigneur le Roi & les dreitures de sa Coroune estre maintenuz & gardez en touz pointz, & la reverence d'autres Seigneurs estre duement gardez toutz partz.'[8] The petition appears in nearly every protestation down to the year 1413, with variations only in detail. If we ignore the phrases about the lords, the implicit theory is clear: the commons or the speaker could not prejudice the king's estate or slander him—or often it is displease him[9]—without being liable to punishment. If the protestation was more than a mere formality, then the speaker's concern was not to safeguard a right to free speech, of which in fact there is no hint, but to turn away the king's wrath in anticipation by an apology.

In the light of these protestations, I think we may safely

[6] *Cf.* Pollock and Maitland, *Hist. of Eng. Law*, i. pp. 190–1. Also Michael de la Pole's similar protestation when impeached in 1386 (*Rot. Parl.*, iii. p. 216*b*).

[7] *Rot. Parl.*, iii. p. 424*b*. Also *cf. ibid.* p. 5*b*.

[8] *Ibid.* iii. pp. 34–5.

[9] *Cf. ibid.* pp. 73*a*, 357*a*, &c.

say that there was no formal privilege, at least before 1413. But, with Stubbs' assertion in mind, we are driven on to ask whether in practice the commons did not enjoy a large measure of free speech. It must be a very tentative reply from one whose reading has been chiefly in another period.

Few people reading through the rolls of parliament would escape thinking of the constitutional struggle under Henry IV as Stubbs thought of it, for the attacks upon the crown in that, and to some extent in Richard II's, reign were seemingly launched by the commons; and through their petitions were conducted the assaults upon the royal household and the agitation that captured the council for the barons, handing the government patronage over to them. But we are beginning now-a-days, with the growing study of conciliar and administrative history, to realize that scholars of Stubbs' age thought too much in terms of parliamentary government, and it seems likely that to the new historical school Henry IV's reign will appear, not as a premature rehearsal of the seventeenth century, but as an episode in the mediæval struggle between the baronage and the king for control of the government. Indeed, let us but ask of these attacks upon the crown, *cui bono?* and we shall find it incredible that the magnates were so quiescent as they appear in parliament, leaving to the knights of the shire the whole initiative in what actually was their own cause.

And so we are faced by a puzzle. Perhaps a solution of it may be suggested by examining the parliamentary procedure of the time. In the early days of parliament the lords had been a group or groups, very much as the commons, outside the operative part or core of parliament, which was the king and council. Then they had been able to move the king by petition, like the commons[10]; but as they fused with the council, sharing an increasing proportion of parliament's decisions, they shed this function of corporate petitioning. It is true, individual lords may on occasions still be found petitioning without an intermediary, but the commons were now the petitioners *par excellence*,[11] and for general business it was they who were the initiating organ of parliament—at least, while procedure by petition lasted. This was their function, certainly

[10] *Rot. Parl.*, i. and ii. *passim*, e.g. i. pp. 292, 295; ii. pp. 56, 64*b*, 67, 69*b*, 127, 136*a*, 137*b*.

[11] Cf. *ibid.* iii. p. 427*b*.

from the Good Parliament to the death of Henry IV, when, if ever, there was a 'Lancastrian' experiment. They were used by the lords as a body, to initiate their requests: for example, the petition against the Lollards in 1406 begins, 'supplie . . . votre humble fitz Henry Prince de Gales & les Seigneurs Espirituelx & Temporelx'; yet it was presented to the king by the speaker in the name of the commons.[12] Individual lords also used the commons,[13] and so did the king. It was on their initiative that Richard II in 1391 made a demonstration in defence of his prerogative; and when Henry IV wished to make a similar *démarche* in 1411, he sent the chancellor to them to suggest a verbal petition, and this served to raise the question of the prerogative for him.[14]

Now if the commons were, as I suggest, the initiating organ of parliament, we need see no more than formal significance in that activity of theirs under Henry IV which so impressed Stubbs. But if this be so, how, one must ask, did the lords communicate their requests to the commons? Is there any evidence of a *liaison* between them which would suggest that the real initiative in parliament, in part or whole, came from the lords?[15] Fortunately there is. From 1373—probably from an earlier date—down to 1407, it was the practice for a number of lords to be assigned as advisers to the commons.[16] Usually the commons named those they wanted. True, we do not find the entry in every parliament, but clerks were not equally diligent, nor was their choice of entries for the rolls constant, and the practice may have continued after 1407. The reason the commons gave for the conference in 1382 is striking.

[12] *Rot. Parl.*, iii. p. 583. The petition was probably handed to the commons already drafted. A petition of 1371 begins, 'Et pur ce qe . . . fu monstre a . . . le Roi par touz les Contes, Barons & Communes . . .;' but the formal petition is a commons' petition (*ibid.* ii. p. 304). Another commons' petition begins, 'se pleinont Countes, Barouns, Chivalers, & autres de la Commune' (*ibid.* ii. p. 305*b*); *cf.* also *ibid.* ii. p. 368*a* (No. 39).

[13] *Ibid.* iii. *passim.* Surely such important petitions as those on pp. 525–6, 547*b*, 574–5, were prompted by the interested parties.

[14] *Ibid.* iii. pp. 286*a*, 658. In 1406 the Archbishop of Canterbury reported to the commons, 'qe le Roi vorroit estre conseillez par les pluis sages Seigneurs.' Thereupon the speaker formally raised the subject in a brief verbal petition, and the King had a bill read, already drawn up by himself, appointing councillors (*ibid.* iii. p. 572*b*; cf. *Trans. Roy. Hist. Soc.*, 4th ser., i. p. 179); *cf.* also the proceedings in September, 1397, *ibid.* iii. pp. 348, sq.

[15] The articles for reforming the government presented by the speaker in 1406 do not seem to have been drawn up by the commons, at least not by them alone: *cf.* the speaker's words, *ibid.* iii. p. 585*b*. Also *cf. ibid.* p. 100*b*.

[16] *Ibid.* ii. pp. 316, 363*b*, &c.; iii. p. 610*a*.

It was ' Qe purtant qe lour dit Charge a eux donez touchast si hautement & si pres l'estat de lour Seigneur lige, leur pleust a eulx granter certeins Prelatz, Contes, & Barons de Roialme . . . pur entre-communer avec eux.'[17]

It would be a hasty conclusion, and one palpably untrue, to imagine in the light of this practice that the commons were no more than instruments of the lords. They were clearly more in the Good Parliament.[18] They were aggrieved—or some were—and they had a general idea why. But there is a great gulf between their vague talk amongst themselves as the chronicler gives it, and the astonishing detail of their impeachment articles ; and one fancies that it was bridged by the lords sent to confer with them. What actually were the relative parts played by the lords and commons in attacks upon the crown, it is beyond my competence even to suggest : no doubt we shall have an authoritative opinion from the administrative historian. But if the line of my argument be sound, then the commons, by the normal procedure of parliament, were necessarily saddled with the task of petitioning. And if the speaker's protestation was something more than a formality—and there are indications that it was[19]—then the commons realised the danger of their task. Perhaps it is straining the fancy to suggest that when in the parliament of 1406, which in Stubbs' theory was an important parliament, the speaker made his protestation no less than seven times, it was because he was unusually anxious lest he should give offence. At any rate, we need no longer conclude that the real test of strength in parliament was between the king and commons. In all likelihood it was between the king and lords.[20] And some support

[17] *Rot. Parl.*, iii. p. 145*a*. The author of the Anominal Chronicle makes one speaker in the Commons in 1376 say, ' et de treter de si graundes poyntes et grevouses maters . . . saunz conseil et aide de plus graundes et sages qe nous ne sumez et ne serra poynt profitable ne honurable a nous tiel processe comencer saunz assent des seignours.' Therefore they should ask for certain lords, ' pur nous aider et conseiler et oier et tesmoigner ceo qe nous dirroums.'

[18] An Anominal Chronicle . . . (*ut supra*).

[19] *Cf. Rot. Parl.*, iii. pp. 339*b*, 466*a*, 569*b*, 658*b*.

[20] The parliaments of 1386, 1388, and 1397–8 offer striking illustrations of my thesis. In them all, the formal initiative, as the rolls and statutes record the procedure, was overwhelmingly the commons' ; yet Stubbs does not attach to that initiative the significance he attaches to it under Henry IV, for the realities are known to have been different. In 1386 and 1388 Gloucester's party was in the ascendant. Even from the rolls and statutes of those years one might draw the following conclusions : (i) The lords and commons worked closely together, knights of Gloucester's party no doubt supplying the leadership of the commons. (ii) The commons' petitions, demanding the com-

for such a thesis comes from the newly-discovered account of the Good Parliament, where the commons appear as an unorganised body, and their speaker, not as a chairman, but as a member elected to report their wishes when they were on the eve of proceeding before the king. To the Tudor historian, reading history backwards, this seems natural, and what slight evidence of the speakership the rolls contain appears to confirm the chronicler's picture of procedure.

A prologue, however, has no right to usurp the place of the play, and so we must leave this argument, stated no doubt too simply to fit all the intricacies of a developing procedure, and must conclude our introduction. After 1413,—though not necessarily immediately after—the speaker's protestation sheds the prayer for the king's forgiveness, a change which may indicate the tendency of phrases to become formal and curt when often repeated,[21] or may reflect the passing of baronial politics from the parliamentary stage under Henry V, or again may represent the gain in independence accruing to the commons from time and an unpleasant apprenticeship under Richard II and Henry IV. In the middle of the century we have Yonge's case. In 1451 he proposed in parliament that the Duke of York should be declared heir to the crown, and for his temerity was imprisoned in the Tower. A swing of fortune's wheel placed the government in the duke's control, whereupon Yonge petitioned for compensation for his sufferings, urging 'that by the olde liberte and fredom of the Comyns of this Lande had, enjoyed and prescribed, fro the tyme that no mynd is,' all

mission of reform, &c., were prompted, directly or indirectly, by the lords. (iii) The lords compelled the king to agree to their conversion into statutes, and perhaps coerced the judges to agree to the obnoxious statute of 1386, which later was declared treasonable. The point I would make is that Gloucester's policy was embodied in commons' petitions, not because he wished to shirk responsibility—that would have been a futile and childish deception—nor merely to give the semblance of national support to a party programme, but because it was the normal procedure of parliament. The commons were the strategic point of parliament. The fight was between the crown and Gloucester's party in the lords. And perhaps Richard tried to obtain knights, 'in debatis modernis magis indifferentes,' in 1387, because he hoped that without definite leadership the commons might boggle over shouldering a dangerous burden. In 1397–8 the balance of power was changed where it really mattered—in the lords. The king was dominant, and determined parliament's policy. But the formal initiative was again with the commons. Here is a simple explanation of a *volte-face* in the commons. It is needed several times in this period. (*Rot. Parl.* and *Statutes of the Realm* for 1386, 1388, 1397–8.)

[21] Chaucer lapsed into extreme brevity in 1411; but the king suspected some scheme of innovation, and made him repeat his protestation at full length. *Rot. Parl.*, iii. p. 648.

members ' ought to have theire fredom to speke and sey in the Hous of their assemble, as to theym is thought convenyent or resonable, withoute eny maner chalange, charge or punycion therefore. . . .'[22] It is a claim unique in the Middle Ages. Yet how much more than a personal opinion his definition of free speech was, it is hard to say. Certainly it cannot be taken at its face value ; and it would be absurd, considering Yonge's connection with party politics, to urge that the favourable answer of the government was an implicit recognition of his definition. However, a certain, or more probably a very uncertain, freedom of speech had evidently come to be regarded as a customary right ; and at that it remained until the Tudor period.

The fundamental change which led to the transformation of parliament into two more or less co-ordinate houses, no doubt was the change from procedure by petitioning, as in the French Estates General, to procedure by a bill, containing in itself the form of an act, and read and assented to both by lords and commons. It was a slow change, too subtle to yield its secret to any but the most careful research. It was accomplished before 1509 : indeed it is very doubtful whether any bill in Henry VII's reign passed without the consent of both lords and commons. Nevertheless one may still be approximately right in assigning Henry VII's reign to the mediæval evolution of parliament, and in setting forth anew with the reign of Henry VIII. For then the commons began to assume those new powers which led them to function as a court ; and since they assumed them with the acquiescence and probably with the encouragement of the crown, there is much truth in the paradoxical description of Henry VIII as the architect of parliamentary liberties.

The first of the new powers was granted to the commons by an act of 1515, which forbade members to leave parliament before its close without the license of the speaker and the commons.[23] How members secured leave of absence in Henry VII's reign we do not know, but probably this act for the first time transferred the granting of permission from the king to the commons. Its contemporary significance was slight—no doubt but a step of administrative convenience ; and it did not deprive the crown of its ancient disciplinary rights. Time, however, was to show that the penalty for the

[22] *Rot. Parl.*, v. p. 337*a*. [23] *S.R.*, iii. p. 134.

disuse of power is the loss of it. In 1555 there took place a great secession of members from parliament in contempt of the queen's commands, and Mary then asserted her control over attendance by prosecuting the offenders in the Queen's Bench.[24] Whether they regarded her action as *ultra vires*, one cannot say ; but Elizabeth's reign must have educated the commons to such a view, and it is significant that Coke, in commenting upon this incident, assumes it unhesitatingly.

Our real concern with the act of 1515 is, however, as the first recorded assumption by the commons of control over their members. It leads logically and in all likelihood led historically to the house reviewing other questions affecting its membership. Thus the crown began to leave it to the speaker to move the chancellor for a new writ when a member, chosen for two constituencies, had decided for which he would sit —and again, no doubt, the innovation was a matter of convenience ; it did not forbid the house to examine the charters of new borough constituencies, probably because they would not be disputed if they were in order ; and then at last it dared not fight out the constitutional quarrel when the commons went on to settle a disputed election in 1586, for in that session there was the great business of Mary Queen of Scots, and minor issues might have distracted them from it.[25]

Hence the act of 1515 launched the commons on a new career ; and in 1543 they broke with mediæval practice still more strikingly when they assumed jurisdiction over their old privilege of freedom from arrest and molestation. This was in Ferrers' case, the first precedent of its kind that we know, and seemingly the first that Elizabethans could quote. That it was novel the very ill-success of its initial stage suggests ; for when the serjeant of the lower house was sent to release Ferrers, his mace was broken in an undignified scuffle, and he failed to fulfil his mission. But setting aside the proffered help of the chancellor, as though conscious of the great constitutional issue that was involved, the commons renewed their attempt. They were successful, and, to mark the affront to their honour, imprisoned those who were concerned in Ferrers' detention.[26] The precedent once set, they clung tenaciously to it, and won new dignity in their own and in others' eyes by the readiness

[24] Coke, *4th Institute* (1669), pp. 15, *sq.*
[25] *C.J.* Edw. VI and Mary, *passim* ; D'Ewes, *Journals*, pp. 393*a*, 396–7, 398–9.
[26] Holinshed, *Chronicles* (1587), iii. pp. 955–6.

with which they took to punishing contempt of their court by imprisonment.

Whilst the commons were acquiring these new powers, the petition for free speech appeared. It first occurs in the entry of the speaker's protestation in 1542.[27] The question is, can we assume that that really was the first time that it was made? The lords' journal for the previous parliament, 1539, contains no protestation; for 1536 there is a protestation, but no petition for freedom of speech; and the petition appears in no earlier protestation.[28] It looks, then, as though we might say that until 1539, at least, the petition was not made. But we dare not, and for this reason. After 1542 the speaker's protestation reappears in the lords' journals only in Mary's last parliament; but it is then mediæval in form and free speech is not mentioned.[29] Yet that the petition was made, we can be practically certain, for it was made previously in November 1554, and subsequently in Elizabeth's first parliament, and in every parliament thereafter.[30] Clearly, the clerk's entries cannot be trusted. Common form walks like a ghost after death; and probably we owe the entry in 1542 to nothing more than the virgin energy of mind of a new clerk, Thomas Soulement. The lords' journals are therefore untrustworthy, the parliament rolls are for this purpose useless, and we escape from speculation only by the unexpected help of Roper's *Life of Sir Thomas More*. Roper seems to have had by him a draft of the speech which More made as speaker in 1523, and this he quotes *verbatim*. It contains two petitions, the one personal, such as had been made since mediæval days, and of no great length; the other for freedom of speech, prefaced by a long preamble, and containing with the preamble from six to seven hundred words.

It is clear that More did not consider his petition a petition of right: free speech is not yet a formal privilege, we gather. Parliament is the king's court; he may be displeased with what members say; and as discipline is his to maintain, he may punish the too bold or too rash for their speeches. But, More urges, to instil fear will prejudice the king's business: 'as much folly is uttered with painted polished speeches, so many boysterous and rude in language see deepe in deed,' and 'the mynd is often so occupied in the matter, that a man rather

[27] *L.J.*, i. p. 167.
[28] *Ibid.* i. pp. 4, 11, 19, 86.
[29] *Ibid.* i. pp. 514–15.
[30] *C.J.*, i. 37; D'Ewes, *op. cit. passim.*

studieth what to say, then how.' The petition itself is as follows: 'It may therefore like your most abundant Grace . . . to give to all your Commons here assembled your most gratious license and pardon freely, without doubt of your dreadfull displeasure, every man to discharge his conscience, and bouldly in every thinge incident among, declare his advise, and whatsoever happneth any man to say, it may like your noble Majestie of your inestimable goodnesse to take all in good part, interpretinge every man's words, how uncunningly soever they may be couched, to proceed yeat of a good zeale towardes the profitt of your Realme and honour of your Royall person. . . .' [31]

It seems hardly to differ from the protestations made down to 1413, except in this fundamental fact, that More wants liberty of speech, whereas his predecessors wished to avoid punishment, thereby tacitly renouncing the liberty which More claims. Let us notice, however, that it is speech and speech only with which he is concerned. He is not asking, not dreaming of asking, that members shall be allowed 'to frame a form of Relligion, or a state of gouernment as to their idle braynes shall seeme meetest.' [32] Henry VIII would have retorted like his daughter, 'no King fitt for his state will suffer such absurdities.'

Now if we turn to Elizabeth's reign; in 1563 we have a full account of speaker Williams' speech, occupying more than four folio columns in D'Ewes' *Journals*. Despite its length the petitions are very briefly put, especially the one for free speech, which reads as follows: 'That the Assembly of the Lower House, may have frank and free Liberties to speak their Minds, without any Controulment, Blame, Grudge, Menaces or Displeasure, according to the old antient Order.' [33] There is no preamble, as with More, to justify the claim. Time and a rising spirit of independence had formalised it and had converted free speech into an ancient and undoubted privilege. The contrast with More's petition is so remarkable that I am inclined to argue that the claim could not have been an old one when More spoke his long apology; and his own experience of the need for freedom of speech, his independence of mind and courage, make it probable that he himself

[31] More's *Utopia*, ed. J. R. Lumby, pp. xi–xii.
[32] The Lord Keeper's speech in 1593. *E.H.R.*, xxxi. p. 137.
[33] D'Ewes, *op. cit.* p. 66*a*.

originated the claim. His successors may all thereafter have repeated it.

With the theories of More's petition, expressed and implied, the practice of Henry VIII's reign seems to have been very much in keeping : although so lamentably deficient is our information that we hazard a guess, rather than state a fact. Whatever the earlier official attitude to the house of commons—and Wolsey was rather truculent—with the opening of the reformation Henry VIII took it into partnership ; and it is significant that while at the beginning of the reign government legislation seems to have been introduced into the lords, many of the reformation measures were initiated in the commons. The crown threw the weight of its favour into their scale and hastened that descent of the beam which social changes were also aiding. The long Reformation Parliament proved an invaluable school of experience, a nursery for the corporate spirit of the commons. And it was a necessary corollary of the king's policy that instead of controlling by a naked display of power, he managed the house by a group of ministers. When, for example, Lord Lisle's agent in England spoke to Bishop Gardiner about a motion which a Calais member, Broke, had made against the sacrament, he was answered that Broke 'beying a burgesse . . . might well declare his mynde and opynyon. Neuertheles hee was there [in the house of commons] imedyatlye fullye answeryd by sir William Kyngston comtroller of the Kinges . . . howshold.' [34]

It is a remarkable fact that a masterful man like Henry VIII chose to persuade rather than coerce members. When two of them suggested that he should take back Katherine, his wife, and treat her well, he was displeased ; but we do not know that he did anything more than defend his policy before the commons.[35] When Sir George Throckmorton opposed the act of appeals, the king merely sent for him, justified himself, and forgave his conduct.[36] But we must not be too charmed with this method of Henry's of 'confounding them all with his learning.'[37] Argument might be a little one-sided in an age familiar with the saying that the wrath of the

[34] *P.R.O.*, Lisle Papers, vi. f. 27 (*L. & P.*, Hen. VIII, xiv. pt. i. 1152).
[35] *L. & P.*, Hen. VIII, v. 989, 1059.
[36] S.P., Hen. VIII, cxxv. ff. 246, *sq.* (*L. & P.* Hen. VIII, xii. pt. ii. 952).
[37] *L. & P.*, Hen. VIII, xiv. pt. i. 1040.

prince is death, and familiar too with its truth. Too bold speech was an offence, though it might be forgiven ; and even supposing we could argue that because we do not know of anyone in the house of commons who was imprisoned for licentious speech, therefore nobody was imprisoned, still our scanty information contains some sinister hints. Throckmorton said that 'the common house was much advertised by my lord privy seal' and 'few men there would displease him.'[38] Bishop Gardiner, after the remark about Broke already quoted, went on to say, 'And concernyng further examynacyon whether the forsaid Artycles and motyon soo in the parlement made cam and proceedyd of other, to that . . . yow shall not nede to dowbt but that hee shall bee otherwyse after a more dewe and strayt facyon examyned then hee haue ben yet.'[39] Broke became so obnoxious that the king took advantage of his connection with the Calais sacramentarians to suggest that he be put to death.[40] Again, Marillac, the French ambassador, thought that a wealthy merchant who had been imprisoned and his goods forfeited for succouring a priest in prison, had really been punished because 'the year past at the parliament he spoke too boldly in prejudice of this King's rights and prerogatives.'[41] So, too, we find Throckmorton needing Henry's forgiveness a second time for his behaviour in parliament[42] ; and Gostwick, another member, threatened for maligning Cranmer.[43]

While it would be absurd to believe Chapuys when he asserts that no man in parliament 'dare open his mouth against the will of the King and Council'[44] ; and while Marillac's comment about the wealthy merchant is at least as notable because it implies that he was not immediately and not directly punished for prejudicing the royal prerogative, still one imagines that if there was formal tolerance, there was also informal coercion, and nuisances were not suffered gladly.[45]

The period from 1547 to 1558 is hardly more than a bridge between two reigns of outstanding importance, and

[38] S.P., Hen. VIII, cxxv. f. 246.
[39] Lisle Papers, vi. f. 27.
[40] *L. & P.*, Hen. VIII., xv. 473.
[41] *Ibid.* xv. 697.
[42] S.P., Hen. VIII, cxxv. ff. 246, *sq.*
[43] Strype, *Memorials of Abp. Cranmer* (1812), p. 177.
[44] *L. & P.*, Hen. VIII, xxi. pt. ii. 756. Also *cf. ibid.* xiii. pt. ii. 771 (2).
[45] I need hardly point out that Strode's case has no concern with the relations of the crown and the commons. The act concerning him asserts the obvious principle that an inferior court cannot punish members of a superior court for their actions in that court.

I propose to treat it somewhat cavalierly by merging its incidents into a survey of the constitutional position affecting freedom of speech at the close of the period. For very soon after 1558 the veil lifts from parliamentary history, revealing a ceaseless conflict between the crown and the commons, constant interference with the proceedings of parliament, and the imprisonment and coercion of members for what seems to be their courageous championship of parliamentary liberties. Traditional history has given its verdict upon Elizabeth's policy with no uncertain voice, and her acts have been condemned as unconstitutional. If we are to review this verdict, then it behoves us to discover what constitutional practice and theory were on the eve of Elizabeth's accession to the throne.

In the first place the speaker by 1558 regularly petitions for freedom of speech at the opening of a parliament. It is true that since More's speech we have had only two notices of his doing so, the one in 1542, the other in 1554 : that is an accident with no special significance. Constant repetition and Henry VIII's fatherly policy have shortened and formalised the request, so that it has shed its apologetic character, and free speech has come to be regarded as a privilege similar to the ancient privilege of freedom from arrest and molestation. In consequence, the claim is by 1558 as vague and elastic as the term 'freedom'; and members of a house of commons which is growing rapidly in corporate capacity, whose independence is increasing with ripening experience and ability, whose traditions, too, are beginning to defy time as membership becomes the lifelong hobby of the gentry, and whose victories over the crown can now be consolidated by registering them in the new journal—members of such a body may and will read into 'freedom' the most radical ideas, and claim for them the sanctity of privilege. Hence the change from the fifteenth century, when free speech was a customary right, if a right at all, to the Elizabethan age, when it is a formal privilege, formally petitioned for, and formally granted, is a profound change. Its public assertion in each parliament revives it in members' minds. Its lack of precise definition encourages its expansion. As yet the crown has hardly awakened to the danger. The reply it makes to the petition in 1542 is vague, at least in the clerk's short entry : 'honestam dicendi Libertatem,' says the chancellor, 'non negare

Regiam Majestatem.'[46] And in 1559, when we have the actual text of the lord keeper's speech, it is still vague : the petition is granted, Sir Nicholas Bacon says, but so the commons 'be neither unmindful, or uncareful of their Duties, Reverence and Obedience to their Sovereign.'[47]

As yet the commons do not seem to have claimed that they are the sole interpreters of their privilege. The claim, however, lies in the logic of events. As we have seen, they have already established a fairly extensive jurisdiction. They control their own membership in certain election questions ; they exercise discipline over attendance. More important still, they are now the defenders of their privilege of freedom from arrest and molestation. They can imprison and fine. Why then should they not extend their control to another privilege, determine the limits of free speech, and punish licence ? Here, as so often happens, practice preceded theory. In 1548 when Story attacked the act of uniformity in a vehement speech, crying, 'Woe unto the land whose king is a child,' the commons did not wait for the privy council to act, but committed him at once to the serjeant's ward, judged his case on the two following days, and on the third sent him to the Tower. But they did not carry their assumption of jurisdiction through to the end, for when they desired his release, they forwarded their resolution to the king with the request that he should forgive him.[48] As yet, then, there is no theory that the commons alone should punish licentious speech : there is the beginning of a practice, however, that may well result in the theory. The same comment may be made upon an incident in Mary's last parliament. A member named Copley used 'unreverent words about the Queen's Majesty,' saying that a certain bill might enable the Queen to give away the crown from the right inheritors. The house again took immediate cognizance of the offence. It wished to excuse Copley on the ground of his youth, and perhaps because of sympathy with his zeal ; but conscious that it had not full jurisdiction, it committed him to the serjeant's custody and announced his fault to the Queen, at the same time pleading for mercy. Mary's reply seems to indicate that she intended the council to investigate the matter.[49]

[46] *L.J.*, i. p. 167. [47] D'Ewes, p. 17*a*.
[48] *C.J.*, i. pp. 6, 9 ; *D.N.B.* ; *Harl. Misc.* (1745), iii. p. 100.
[49] *C.J.*, i. pp. 50–1.

So far we have noticed the following facts. First, a formal privilege exists in 1558, which is not precisely defined, except so far as practice has defined it. Second, the right of the crown to enforce discipline in the house of commons has been kept alive by use, although the tendency of the commons to anticipate the crown's action by action of their own threatens encroachment. We must now discover more accurately what the content and the limitations of free speech were.

Our starting-point is the vague, earlier mediaeval protestation. Under Richard II and Henry IV, as we have seen, it seems to have been supposed that members might find themselves in trouble, either by saying or doing anything displeasing to the king, or by infringing his prerogative. The second offence is really a more heinous form of the first ; and since the prerogative became an acute question in the reign of Elizabeth, we may postpone discussion of it for the moment, merely remarking that as parliamentary sovereignty was born only in the seventeenth century—though in the womb, no doubt, in the sixteenth—parliament had no right to threaten damage to the prerogative without the crown's consent. We are left to draw what precise conclusions we can from the offence of displeasing the king.

In the late fifteenth and early sixteenth century this offence must have undergone a sinister extension. Whilst the old procedure by petitioning lasted, the crown had had no need of a legislative policy in parliament.[50] The formal initiative had come to be with the commons ; and their petitions suggested administrative reforms and provided the basis of statutes. If the King had a policy, he enforced it through the council. But the evolution of procedure by bill, the decay of the council, and the growing authority of parliamentary measures, made a crown policy in parliament not only possible but necessary ; and it is notable that Fortescue advocated it in his scheme for an ideal government.[51] One's impression is that Henry VIII developed the practice to the full. Inevitably the relations of the crown and the commons took on a new complexion, and the question was bound to arise, whether the commons could with impunity attack and reject govern-

[50] Of course the crown did sometimes have a policy, as Richard II in 1397. (*Cf. supra*, p. 263.) Also cf. *Trans. Roy. Hist. Soc.*, 4th Ser., i. p. 172.

[51] *Governance of England* (ed. Plummer), p. 148.

ment measures. Even supposing that the danger to individuals was decreased when there was practical unanimity in the assembly, leaders of opinion might still feel the crown's displeasure ; and as the team spirit was in fact a slow development, it was imperative that there should be some security when criticising government bills. A story from Roper will illustrate the point. He tells us that Sir Thomas More incurred the bitter wrath of Henry VII by his opposition to a money grant, and that 'had not the King soone after died, he was determined to have gone over the sea, thinking that beinge in the King's indignation he could not live in England without great daunger.' [52]

If the petition for freedom of speech was first made by More, as seems likely, then it requires no great act of faith to believe that it was out of this need for unrestrained criticism of government measures that the petition really arose ; and if the conjecture be accepted, it follows that the object of the petition furnishes us with a practical and positive description of the privilege ; one, moreover, which agrees with the construction put upon it by Henry VIII and his Tudor successors, who all honoured it as such—formally, at least. It was a valuable right, by no means to be disparaged because Elizabethans had grown out of its swaddling clothes. Whether this description of the privilege would have been accepted by a parliamentarian in 1558 I find it impossible to guess, although I doubt if he would have opposed it so vehemently as the history of the two next decades might suggest.

We may assume, then, that the commons after 1523 were privileged to oppose and amend government proposals. That involved liberty of speech : but liberty was not licence, which still remained punishable ; and the danger was that while the crown retained the right to enforce discipline in parliament, it necessarily defined licence. Slander of the crown, as Story's or Copley's, and Gostwick's attack upon Cranmer, would come under the head of licence. So too would riotous conduct in the house of commons, of which an interesting example reaches us from the parliament of 1555. That year there was a formidable opposition to the crown, enlivened by a radical section in the commons, at whose head was Sir Anthony Kingston. The bill for releasing firstfruits and tenths was carried on a close division of 193 to 126, and then only by a

[52] More's *Utopia*, p. viii.

manœuvre; for its third reading was delayed a week, and probably rushed through unexpectedly at the close of a long sitting. This annoyed the opposition, and they determined that a bill for recalling absentees should not be passed by similar tactics. Accordingly, Kingston and his group seized the keys of the house, locked the doors, and forced a division in which the bill was rejected. They were summoned before the council for their outrage and committed: Kingston was sent to the Tower, and a fortnight later was released on his humble submission.[53]

A further limitation must be noticed before we turn to Elizabeth's reign—namely, that the privilege of free speech covered speech inside parliament, but not outside. It was the Tudors' consistent policy to forbid the discussion of public affairs in private assemblies, and therefore the development of parties and of concerted action in the house of commons met from the first with legal obstacles, not removable by any existing privilege. Already under Henry VIII a letter of Sir George Throckmorton to the King shows a group of members dining frequently at the same inn and discussing the proceedings of the house. But they were careful to dismiss their servants before talking, and Throckmorton insists upon the casual nature of the meetings, for their legality was in question.[54] Also Kingston and his friends in 1555 had invited themselves to dine with Cecil, and it was only the fact that the cautious Cecil had forbidden them to discuss parliamentary business—an injunction they ignored—that saved him from sharing their imprisonment.[55]

If in Elizabeth's reign the aspect of our subject changes, if parliaments are full of strife, if liberty begets martyrs, and martyrdom a new mentality, and if privilege in consequence becomes an obsession, the explanation lies in that alteration of the crown's powers in parliament which had been steadily proceeding since the fifteenth century, and which, no less than the rapid growth of independence in the house of commons, placed Elizabeth in a worse predicament than any of her predecessors. As early as 1376 the speaker had claimed that 'ceo qest fait en parlement par estatute ne serra poynt defait saunz parlement.'[56] But not all petitions, especially not

[53] *C.J.*, i. p. 46; *Acts of P.C.*, v. pp. 202–3, 208; Peck, *Desiderata Curiosa*, p. 9; *Venetian Cal.*, vi. pt. i. p. 283; Noailles, *Mémoires*, v. p. 246.

[54] S.P., Henry VIII, cxxv. f. 248. [55] Peck, *Desiderata Curiosa*, p. 9.

[56] An Anominal Chronicle of St. Mary's Abbey, York.

those more intimately affecting the royal administration, had become statutes and been more or less given the legal character of Elizabethan acts of parliament. Moreover, until the sixteenth century, even with procedure by bill, a king had been able to amend acts at the moment of assenting to them—at any rate by way of lessening their scope.[57] Edward IV added provisos to an act of resumption in 1472–3 which fill pages of the printed rolls : and not only that, but by letters patent six years later he amended the form of his assent and added further provisos.[58] The power of amendment lapsed under Henry VIII, probably owing to the encroachment of legal and parliamentary opinion, and also because the crown now had ministers in parliament to steer legislation through the houses.[59] By Elizabeth's reign not a word of an act could be altered without the assent of the lords and commons, and the crown's power had thus been limited to a veto. The queen kept her veto alive by vigorous use of it, quashing twelve bills in a single session.[60] Yet this remnant of power was not unqualified. One of the remarkable features of her reign was the focussing of public attention upon parliament. Men strove for membership for experience' sake and 'to learn and sea fashiones.'[61] Puritan synods were held and pamphlets published in London during its sessions[62] ; and parliamentary business became the talk of taverns, the city following the great monopoly campaign of 1601 with passionate interest. As Elizabeth sought to establish her throne upon the affections of her people, she was conscious that she might shake its foundations by quashing a bill in which the public was interested. In 1566, when the lords co-operated with the commons in the succession question, she complained bitterly of her isolation and of the sole responsibility being thrown upon her for refusing to nominate a successor ; and at the close of the

[57] Amendments of this character to one another's bills could be made either by the lords or commons without the other's special assent. Cf. *Y.B.* (1601), 33 *Hen. VI, Term Pasch., plea* 8, ff. 17*b*–18.

[58] *Rot. Parl.*, vi. p. 74 *sq.*, 92 *sq.* An act in Henry VII's reign fills three and a half pages of the *Rolls*, whereas royal provisos fill forty-five pages (*ibid.* pp. 339 *sq.*) ; and this sixth volume abounds with other examples.

[59] In 1511 the lord chancellor and the bishop of Winchester ruled that the king could add a proviso for the Hanse merchants without the assent of the lords and commons (*L.J.*, i. p. 17*b*). The implication is that the king's right was exceptional in this case. It is the last instance of the right of amendment that I know.

[60] *E.H.R.*, xxxiv. p. 586 ; xxxvi. p. 480. [61] Harleian MS. 253, f. 32.

[62] Usher, *Presbyterian Movement* (Camden Soc.), p. 98 ; Fuller, *Church Hist.* (1845), v. p. 83.

session she spurned at those who had thought to work her that mischief which never foreign enemy could bring to pass, the hatred of her commons.[63] Again, in 1572 she made a pathetic but futile attempt to convince parliament that her veto upon the bill against Mary was only a suspension of judgment.[64] And on another occasion she told the Spanish ambassador that if certain bills on church matters were passed, she feared that 'such pressure would be brought to bear upon her that she could not refuse her consent.'[65]

Nor was the restraint upon her veto the only handicap she suffered. The reformation had engendered passion and had raised an issue where the divinity of kings could not prevail against a higher loyalty to God. Once more the difficulties of her predecessors were negligible alongside hers, for whereas the crown had hitherto carried through the religious changes and had preserved its initiative without much trouble, after the opening years of her reign Elizabeth's policy ceased to be progressive, and she had to fight to withhold the initiative from a vigorous, legally-trained puritan opposition, in whose hands the opinion of parliament was moulded. Inhibitions and threats were of little avail. Said Pistor, one of the puritan members in 1571, 'This Cause is God's, the rest are all but Terrene, yea trifles in comparison ; call you them never so great, or pretend you, that they import never so much; Subsidies, Crowns, Kingdoms, I know not what they are in comparison of this.'[66] Similarly in the problem of the succession, the crown had but a negative policy which seemed no policy; and yet upon the future of the throne depended the future of religion. 'It importeth more,' wrote Wentworth, 'than all the members' heads and ten thousand more be worth.'[67] The same conflict of loyalties arose here ; and the initiative was again taken by the puritans, but with more general and influential support than in their religious campaign.

Elizabeth dared not let bills upon the succession or religion be framed. She might not count upon the lords as a certain obstacle, and the bills might gather such momentum that to stop them with her veto would cause a shock to the constitution. The sphere of the crown and of parliament in

[63] Cf. *E.H.R.*, xxxvi. p. 505.
[64] *Ibid.* xxxix. p. 42.
[65] *Spanish Cal., Eliz.*, i. p. 604.
[66] D'Ewes, p. 166. I have turned the quotation into direct speech.
[67] Harleian MS. 1877, f. 38*b*.

initiating legislation thus became an acute problem—as I believe, for the first time ; and the queen was compelled to attempt control of the commons through her ministers, and this failing, was compelled to interfere with their proceedings. A great contest over freedom of speech opened, and continued until the final victory of parliament in the next century. It was well that in 1558 the privilege of free speech was so indefinite. It was also well that history was then in its infancy, so that liberty's upholders might pervert it with a good conscience.

In 1559 the lord keeper's reply to the petition for free speech was, as we have seen, in general terms only, like the petition itself. In 1563 it was no more.[68] But in the two sessions of that parliament the succession agitation began. Members refused to be satisfied with royal promises which they knew were evasions ; and when the Queen peremptorily forbade further discussion, they talked of their privilege. It was only the masterly tact of the queen that saved a serious crisis.[69] One thing was clear : the crown must reply by a definition of its own to the definition of free speech advanced in 1566 by Paul Wentworth ; and therefore when in the next parliament the speaker made his usual claim, he was answered that the petition 'was such that her Majesty having Experience of late of some disorder, and certain Offences, which though they were not punished yet were they Offences still, and so must be accompted, therefore said, they should do well to meddle with no matters of State, but such as should be propounded unto them, and to occupy themselves in other matters, concerning the Common-wealth.'[70] As the trouble continued, the definition was reiterated.

Elizabeth construed the privilege of free speech in a perfectly clear manner. On the positive side her construction cannot be better put than in the lord keeper's speech of 1593. 'For libertie of speech,' he said, 'her majestie commaundeth me to tell yow, that to saye yea or no to Bills, god forbid that any man should be restrained, or afraide to answar accordinge to his best likinge, with some shorte declaracion of his reason therin, and therin to haue a fre voyce, which is the verye trew libertie of the house.'[71] In essence it is the positive description of the privilege that I suggested earlier in this essay.

[68] D'Ewes, pp. 66*b*.
[69] Cf. *E.H.R.*, xxxvi. p. 497 *sq*.
[70] D'Ewes, p. 141*b*.
[71] *E.H.R.*, xxxi. p. 136.

Negatively the queen imposed certain limitations, the first of which, namely, that excluding licentious speech, I have already discussed : ' fitt obseruacion of persones, matters, tymes, places, and other needfull Circumstances,' was required, she said.[72] But there were two other limitations which we must now examine. The one concerned her prerogative, the other banned all talk of the succession.

The queen's prerogative included her ecclesiastical powers as supreme governor of the church—powers, as she professed, that existed ' by law of the crowne ' and ' by law posityue by statute.'[73] It included also her right to issue letters patent, for example creating monopolies ; and her right to control the administration. The commons attempted to frame bills entrenching upon all these and upon other branches of her prerogative ; and she was compelled to keep vigilant watch and to engage in numerous struggles. But it was impossible for the queen entirely to exclude matters of prerogative from the business of parliament ; nor did she desire to. Her rights might inflict hardship upon the commonwealth, as the abuse of purveying or the granting of monopolies did ; or the church might be corrupt and need reform. All the queen asked was that a constitutional procedure might be observed ; for as a subject could not sue the crown without first petitioning it, so the commons ought not to discuss her prerogative without first asking her consent. By way of remedy she might allow them to frame an act of parliament, or she might use her own power to redress their grievances ; or, of course, she might forbid any action. The best legal opinion in the house of commons was with her, for legally her position was unassailable. The queen, Fleetwood said, was sworn to preserve her prerogative ; and to talk of it, *rege non consulto*, was perilous.[74]

It can hardly be argued that the prerogative included the right to nominate an heir. The constitutional position was rather that where the best right was, there was the heir ; and it was a matter for adjudication between claimants, though which was the proper adjudicating authority was a disputable point. Parliament had passed acts regulating the succession under Henry VIII, but the crown no doubt had introduced them, even when framed as petitions. And though Norton, backed by a fervent majority, had inserted a clause into the

[72] *E.H.R.*, xxxi. p. 136.
[73] Harleian MS. 6853, f. 285*b*.
[74] D'Ewes, p. 160*b*.

government's treason bill of 1571, whereby it became a treasonable offence to deny parliament's right to determine the succession, yet that could not gain members the right of initiating a discussion. The question after all was one of high policy, neither pertaining to them, as Elizabeth would have said, nor within the capacity of a subject to understand ; and she forbade talk of it, since it was liberty and not licence that the commons enjoyed. If my earlier description of free speech be sound, then no more need be said upon the correctness of the queen's ban. And though Yonge's case might seem to offer a precedent on the commons' behalf, it is really valueless in a historical enquiry, unless one can show that practice or theory afterwards sustained it.

The prominence of the prerogative in Elizabeth's reign might suggest a reversion to the days of Richard II and Henry IV. There was an important difference, however, which, though it has been suggested before in this essay, may well be stated again more explicitly. In the earlier period parliament's initiative was by petition, the more important of the petitions entrenching upon the crown's powers being made verbally by the speaker. The king's assent no doubt was often exacted under duress, but even so there was no formal threat to the prerogative in a mere request for remedy of a grievance, unless on the one hand the petition was converted into a statute, or, on the other, the pressure of parliament could be—as it was not—sustained long enough for custom to turn a temporary into a permanent victory.[75] In reality the petitions more closely affecting the royal administration were not embodied in statutes,[76] and unless their fulfilment was possible in parliament, the king's assent was but a promise recorded on the roll of parliament. Even those petitions incorporated in a statute were merely the moving instruments upon which the king framed the statute, and his replies to them might qualify their sense and the sense of the statute. Elizabethan petitions or bills were very different. The hand of the past might pen their form, but they were more than petitions. They were the actual texts of laws, enforcible in the law courts, once the royal assent had been

[75] Theoretically no time ran against the king ; but obviously time has run against him.

[76] In 1386 and 1388 the lords forced Richard II to convert such petitions of the commons into statutes : hence his indignation and the appeal to the judges in 1387. But this was exceptional.

given ; and that assent had been reduced to an unqualified yes, and the veto to an unreliable weapon. Though the crown by a *non obstante* had wide powers of dispensing with laws, still, when bills encroached upon the prerogative there was a threat of limiting it by law, and Elizabeth once was warned by one of her ministers against restricting her rights by act of parliament, since another act would be needed to restore them. The queen's whole endeavour, in fact, where her prerogative was concerned, was to re-establish the old procedure by a genuine petition ; but she found that all grievances tended to precipitate themselves in the form of a bill, and as circumstances brought 'matters of state' frequently forward, she was bound to defend herself by solving in the crown's favour the essentially new problem of initiating legislation.

'Matters of state,' as Elizabeth used the phrase, were matters reserved as part of the royal estate or prerogative ; and this royal estate was transcendent under the Tudors. It had been busy absorbing the other estates, its last great victim being the church. But outside the royal estate there lay the commonwealth, and one of the problems of the sixteenth century was how political power was ultimately to be organised. There were three possible solutions. On the one hand, the royal estate might absorb the commonwealth, and the state of Louis XIV—mediæval 'status' and modern 'state' wedded —might result. That possibility vanished when Henry VIII went into partnership with the commons in parliament. Or 'state' might retain the mediæval tinge that Elizabeth gave it, be kept distinct from 'commonwealth,' and a system of divided powers be maintained, the crown alone controlling one sphere of action and the crown in parliament another. To attempt this, as Elizabeth did, without the aid of a written constitution and in face of a quickening public opinion, for which parliament served as a safe and effective organ, was to attempt the most delicate of political feats. Men like Peter Wentworth, whose legal training had been long enough to equip him with a sense of constitutional principles, yet brief enough not to qualify his passion by a lawyer's conservatism, turned a blind eye to the queen's distinction between matters of state and commonwealth matters ; and what they aimed at, not less effectively because not deliberately, was the third solution of the political problem, namely, the absorption of the

royal estate into a new and wider conception of the commonwealth. They were pragmatists, but parliamentary sovereignty lay at the end of the road they were travelling. Let us see what these men thought of the most important of parliamentary privileges.

The first attempt to define free speech of which we know, other than Yonge's, was made in 1566, when Paul Wentworth propounded three questions to the house of commons as a retort to the queen's veto on their discussion of the succession. First, he asked, was the veto a breach of their liberty? Second, should the crown's ministers command silence, and were their orders to be regarded as royal commands? And third, supposing this was so, was a member not free to dispute such an interpretation?[77] The move was a fundamental one, assuming, as it did, that the commons were arbitrators upon their own privileges. But the man who carried the task of definition furthest was Paul Wentworth's brother, Peter. Starting from his experience of royal opposition in the two causes which he had most at heart, the puritan reformation of the church and the succession, he grasped, perhaps more clearly than any of his contemporaries, that the fundamental cause upon which all others depended was freedom of speech. His theories he deduced from consideration of parliament's powers; and he argued that as free speech was due to every council, so *a maiore* was it due to parliament, the highest court and greatest council of the realm. Without it the prince and state could not be preserved or maintained, and hence it constituted a special law to which the queen was subject; for though she had no peer or equal in her kingdom, yet was she subject to God and the law. A plenitude of freedom, he maintained, was parliament's right, both on theoretical and practical grounds. Once he employed the historical argument. Henry VIII in his wisdom, he wrote, saw the injury which would result to the realm if any member of the house were either blamed or punished for any speech or bill preferred in parliament, other than by the authority of the house itself. As for introducing bills, why, he asked, should the commons not 'innovate'? Nay, were they not bound in honour to 'innovate' good orders as well as good laws? And had not former parliaments, to their enduring honour, left many precedents

[77] S.P., Dom., Eliz., xli. No. 16; *cf.* the similar tactics of Richard II in 1387. *Rot. Parl.*, iii. p. 233.

thereof, as examples of their power to be imitated? He attacked particular invasions of free speech, and followed his brother's tactics, in 1587, seeking by means of leading questions to obtain rulings from the house on its privilege. He would have had the crown's right of punishment limited to traitorous words, all commands and prohibitions to the house denounced and bearers of them punished for contempt, and the widest competence asserted for parliament.[78] Wentworth, however, was an extremist, with the defects and qualities of the martyr. Few members were prepared to go so far, though most were affected by his spirit and tributes to free speech were abundant. Even the ministers of the crown posed as its advocates.[79]

We have examined the rival theories of the crown and of Wentworth. Let us now see what the practice of the reign was. The queen showed herself in her parliamentary policy a person of infinite tact. Whether it was her instinct or Burghley's common sense, or a happy combination of both, she knew when she must bend before a storm. Yet she could be as imperious as any sovereign and trounce the commons in the most vigorous language. But her bluster should not deceive us. No one blended wrath with clemency more successfully, or plucked up 'dismayed spirits' more graciously. She played the prince with consummate art. When, for example, puritan propaganda so far stirred the commons in 1585, that they broke through all previous restrictions and launched bills that encroached upon her ecclesiastical supremacy, she asserted her rights in a very characteristic message: 'her majestie,' said the speaker, 'is greatlye greued that she hathe occasyon to cause this thus to be delyuered vnto you whom she dothe know and affyrmethe to be as louing subiectes as any prynce in the world hathe. And therfore of her great and tender fauor she could not choose but as a mother ouer her children eftsones to warne you to forbeare any further procedinges in this course.'[80]

Then in 1589, when the commons managed to pass two bills through their house, the one concerning purveyors, the other the exchequer, and when, after the queen had stopped the bills in the upper house, they retaliated by searching for precedents and by asking for access to explain and justify

[78] Cf. *E.H.R.*, xxxix. pp. 36 *sq.*, 175 *sq.*

[79] *Cf.* D'Ewes, pp. 175*b*, 259.

[80] Harleian MS. 6853, f. 285*a*.

their action, this being thought best to stand with their liberties and honour, it certainly seemed that there might be trouble. Elizabeth handled the situation masterfully. She assured them of her 'great and inestimable loving Care towards her loving Subjects'; and explained that she had herself taken steps to redress their grievances. Nor was this all; for a week later she invited the commons to appoint a committee to confer with the ministers to whom she had entrusted the drafting of needful reforms.[81]

Did space permit, we might analyse the great monopoly campaign of 1601, and show that old age had not soured her or robbed her of her art. But we must refrain. By a certain amount of coercion, by practical concessions, and by astonishing tact, Elizabeth generally got her way. On the succession question she issued an imperative 'No'; and though the problem of Mary Queen of Scots made it impossible always to repress the subject, she ultimately succeeded either in converting people to her policy or in coercing them into silence—except, of course, the irrepressible Wentworth.

It remains only to review the queen's acts of coercion. It must be done summarily. In 1566 Dalton was summoned before the council because he was said to have impugned the Scottish title to the succession; but the charge was dropped, as one of several concessions to win over a stubborn house.[82] Then in 1571 Robert Bell was sent for and reprimanded by the council for a speech which touched upon the prerogative:[83] and other members, as Hobby in 1585,[84] were unofficially rebuked for what they had said. In the hearts of the timorous, if we are to believe Wentworth, fear strove for mastery with conscience and too often overcame it. Yet so wide were the legitimate powers of the queen, that she had no need to strain them: indeed, though there was no lack of speeches which on a strict interpretation of free speech might have been regarded as licentious, she punished no one, so far as I know, for any speech used in parliament. Cope, Lewknor, Hurlston, Bainbrigg and Wentworth, it is true, were imprisoned in 1587, and Wentworth, Bromley and Stephens in 1593, but they were imprisoned for holding what we may call party meetings out of parliament, and arranging campaigns for church reform and the settlement of the suc-

[81] D'Ewes, pp. 440–6.
[82] Cf. *E.H.R.*, xxxvi. pp. 507–8.
[83] D'Ewes, pp. 158–9, 167–8, 242.
[84] *Ibid.* pp. 432, 433–4.

cession—not for their speeches in parliament[85] : privilege therefore could not cover them. There was no jesting with parliament over this question of free speech. It was clear that the commons might become as stubborn as a mule, should members be imprisoned for speeches only. If a speech went beyond the bounds of decency, then they thought that they should punish the speaker themselves, as they did Wentworth in 1576[86] ; and the ministers of the crown were practically brought to recognise the doctrine.

The introduction of a bill, such as a church bill, contrary to the queen's commands, was another matter ; and Strickland was confined to his house for this offence during the parliament of 1571. But so threatening was the storm which this step raised that in prudence the queen gave way and he was freed.[87] It was a false move and was recognised as such ; and the same offence was committed with impunity,[88] until in 1593 the queen took alarm at Wentworth's conspiracy to effect a settlement of the succession, and not knowing, but fearing its ramifications, placed James Morice under restraint for the same offence as Strickland.[89] Immediate and drastic action had seemed necessary. The danger past, she reverted to her policy of tolerance, and though her two last parliaments caused her great anxiety, she punished no one.

Elizabeth's reign, as it has been interpreted here, was one of the most critical in parliamentary history. Her church and succession policies, from one point of view so successful, were from another disastrous : they hurried on the growth of the house of commons, as a hot-house hastens the growth of a plant. Not a parliament met after 1559 but the commons came into conflict with the crown : restrictions hardly noticed before were bitterly resented ; and the illusion of freedom gradually vanished from men's minds. Parliament was schooled as the hostile critic of the prince, and moderation, of all qualities the most difficult to retain, was preserved only by the consummate tact and ability of a woman, and the chivalrous loyalty of her people. In her reign, if ever, the monarchy should have stood upon its rights and contested every inch of ground with the parliament. But Elizabeth's

[85] Cf. *E.H.R.*, xxxix. pp. 51–2, 195.
[86] D'Ewes, pp. 241–4. *Cf.* the instance of Parry in 1585, *ibid.* pp. 340–2.
[87] *E.H.R.*, xxxix. pp. 39–40.
[88] For example, in 1585.
[89] D'Ewes, pp. 474–6, 478 ; Baker MSS. (Cambridge), xl. pp. 105–34.

genius was opportunist. She was well content to win a practical victory without inflicting a constitutional defeat. She left unused powers which her unique personality rendered unnecessary. She overlooked offences the commission of which immediately served as a precedent for committing them anew. 'By these degrees,' as Harrington said, 'came the house of commons to raise that head, which since has been so formidable to their princes that they have looked pale upon those assemblies.' [90] The very measure of her success was the measure of the crown's ultimate failure. For, 'converting her reign through the perpetual love tricks that passed between her and her people into a kind of romance,' [90] she made of the crown in parliament a rôle which no man could have played, unless perhaps it had been her father, and trained an audience, which, if sometimes barely tolerant of herself, would be charmed by no other. She passed away, the splendid though involuntary betrayer of the cause of monarchy.

J. E. Neale.

[90] *Oceana* (Morley's Univ. Library), p. 60.

THE TRANSFORMATION OF LONDON

When I have seen by time's fell hand defaced
  The rich proud cost of outworn buried age;
When sometime-lofty towers I see downrazed,
  And brass-eternal slave to mortal rage;

. . . . . .

When I have seen such interchange of state,
  Or state itself confounded to decay:
Ruin hath taught me thus to ruminate—
  That time will come and take my Love away.

Shakespeare: *Sonnet* lxiv.

London . . . is an ornament to the realm by the beauty thereof, and a terror to other countries by reason of the great wealth and frequency. It spreadeth the honour of our country far abroad by her navigations, and maketh our power feared even of barbarous princes.

'An Apology of the City' (c. 1575), printed in Stow's *Survey*.

THE outward and visible transformation of London during the Tudor period, the alterations in its ground plan and its buildings, in the number and distribution of its inhabitants, may perhaps appear to be only of local interest, and, even thus, a mere superficial manifestation of the greater contemporary changes in things inward: the revolution in habits of thought and ways of life, the new outlook, intellectual and religious, the new spirit of enterprise, with its world-wide consequences. But London was the scene of much of the drama of Tudor history, which cannot be fully understood apart from its setting. The transformation was mainly, though not entirely, a result of the dissolution of the monasteries; it illustrates both the general course and consequences of that revolution, and its particular effects, on a smaller scale, in every city of England and Scotland. It also illustrates, incidentally, various characteristics of Tudor sovereignty, especially the tendency to ensure the validity of a transaction by invoking the high court of Parliament. 'Tudor despotism consisted largely in London's dominance over the rest of England':[1]

[1] A. F. Pollard, in an article on 'Local History': *The Times Literary Supplement*, 11 March 1920.

the history of the English Reformation might well be rewritten from that point of view. Almost all its changes were anticipated there; and Henry VIII, Elizabeth, and Burghley succeeded, where Wolsey, Cromwell, Somerset and Mary failed, because they seldom flouted the City and never lost its allegiance. London was 'a mighty arm and instrument to bring any great desire to effect, if it may be won to a man's devotion.'[2] It was the king's 'chamber,' his treasury: there alone, on any emergency, could he obtain supplies in ready money; there were his chief storehouses and reserves of ships and men. No source of its strength, therefore, can be neglected: and the dissolution of the monasteries added much to the space available for residential and business purposes on the gravel hills and within easy reach of the river, and thus made possible a large increase of population without any sacrifice of the economic advantages of the site. Hence, for many reasons, the transformation is not merely of local importance; though on that account alone it would deserve consideration. For it is one aspect of a distinct stage in the evolution of London herself: of the city destined to become both the financial centre of the world, and, in union with Westminster, the capital of the British Empire.

That union, however, was as yet incomplete. Westminster, though linked to London by a line of great houses along the Strand, was still a separate town, its essentials a royal palace and a Benedictine abbey. The palace had become the permanent home of the Law Courts and the Exchequer, and the usual meeting-place of Parliament: thus, while London was the economic and social capital of Tudor England, Westminster was the political capital. The building of the new palace of Whitehall, the successive dissolutions of the hospital of St. James, of the Abbey itself, of the collegiate chapel of St. Stephen and the hospital of the Savoy, the transference of various mansions in the Strand from ecclesiastics to laymen, with the erection there of magnificent buildings like the first Somerset House, and the increased number of resident officials involved by the constitutional changes of the Tudor period—all this made the Westminster of the seventeenth century very different from the Westminster of the fifteenth; but the tale of that transformation is another story.

London under Henry VII was still, therefore, in the first

[2] 'An Apology,' *ut supra.*

and simplest stage of its development. It was essentially the mediæval city, its shape determined mainly by its walls, still standing, though much of the wide ditch outside was becoming choked up, soon to be used for gardens and then built over. But it had extended outward along the roads: westward to Charing Cross, and along Holborn just beyond Staple Inn; north-westward almost to Old Street; north and east for some distance beyond Bishopsgate and Aldgate and by the riverside. Its area north of the Thames was a little more than the 'one square mile' under civic jurisdiction, the present City. Beyond the one bridge was the borough of Southwark, with two main streets, one running south as far as St. George's, the other east to a point opposite the Tower. Except where the Strand joined London to Westminster, there was open country on every side; and even within the walls the buildings along the streets masked much uncovered ground: the churchyards of more than ninety parishes, the spacious gardens and orchards of great houses, religious and secular, the many little plots behind ordinary dwellings. The view from the top of some high tower in an old cathedral city, its houses embowered in greenery, recalls and vivifies the picture of Tudor London suggested by contemporary writings, drawings and maps: for the wide sweep of the Roman wall enclosed an area much larger than was fully occupied during the Middle Ages, and growth beyond its protection had straggled outward, unfettered by fear. London, unlike some of her continental rivals,[3] had never been confined by an outer as well as an inner fortification.

Thus it had been easy to find sites for the twenty-three important Religious Houses, with their churches and cloisters, halls and gardens and orchards, which at the beginning of the Tudor period stood in and around the city. The oldest was the royal free chapel of St. Martin-le-Grand, occupying a site intersected by the street which bears its name. There were five priories of Austin Canons: Holy Trinity or Christchurch, just within Aldgate, its prior *ex officio* alderman of the Portsoken, the eastern 'ward without'; St. Bartholomew's in West Smithfield; St. Mary Overies, whose church is now Southwark Cathedral; St. Mary Spital, on the right hand of the road some distance beyond Bishopsgate, giving its name

[3] *E.g.*, Paris, Aix-la-Chapelle, Brussels and Frankfort: see Braun and Hogenberg's *Civitates Orbis Terrarum*, 1572, vol. i.

to Spitalfields ; and another St. Mary's, Elsing Spital, within the Wall, east of Cripplegate, where a fragment of its church still remains. The two latter were also hospitals for the sick and infirm, as were St. Bartholomew's Hospital, close to its twin foundation the priory, and St. Thomas's in Southwark (originally connected with St. Mary Overies), not to be displaced until London Bridge Station was built in 1862. St. Mary of Bethlehem (Bethlem, Bedlam), an asylum for the insane, was outside Bishopsgate to the left, where now stands Liverpool Street Station. Three other institutions also called hospitals were of a different character : St. Katharine's, by Thames-side, just east of the Tower ; St. Thomas of Acon, north of Cheapside ; St. Anthony's, in Threadneedle Street. Each was a community of a master and brethren. St. Katharine's, where there were sisters too, and an almshouse, had always been under the patronage of the Queens of England ; St. Anthony's, originally an alien priory, after 1414 was practically a royal free chapel. There were two Benedictine nunneries : St. Helen's, east of Bishopsgate Street Within, and St. Mary's at Clerkenwell, on the northwestern edge of Tudor London. Between this and Smithfield was the great priory of the Knights of St. John of Jerusalem, with the Charterhouse near by. There were five houses of friars : the White friars' (or Carmelites) east of the Temple, between Fleet Street and the river ; the Black or Preaching friars' (Dominicans), in the southwest corner of the city, still called after them ; the Grey friars' (Franciscans), north of Newgate Street; the Austin friars', between Broad Street and London Wall ; and the Crutched (*i.e.*, Crossed) friars', whose grounds extended from Tower Hill to the street bearing their name. The kindred order of St. Clare had an abbey, the 'Minories,' outside the eastern ditch, south of Aldgate ; between this and St. Katharine's was St. Mary Graces, the Cistercian abbey of Tower Hill, on East Smithfield, its site now occupied by the Mint.

The precincts of several of these houses, however, had some lay inhabitants (besides the servants of the convent) by the beginning of the sixteenth century. St. Martin-le-Grand had long been thickly populated, chiefly by goldsmiths, shoemakers, and pouchmakers, who formed one whole parish, St. Leonard Foster Lane, and parts of two others ; the precinct of St. Thomas's Hospital was also a parish, more populous

than many of those in the city. At St. Bartholomew's priory and Blackfriars separate chapels were provided for the dwellers within the close; in the latter there were by 1522 the town houses of at least thirteen important people, including Lord Cobham and Lord Zouch, who refused to share the City's contribution to the loan because they were already assessed in their counties. In 1488 the Minoresses had eleven tenants in their close (one being the Duchess of Norfolk), and by 1539 there were several more; while St. Katharine's had many lay inhabitants, of a poorer class. But most if not all of the precincts were enclosed by walls, their gates shut at night; and the dwellers there, clerical and lay alike, were 'in, but not of' the City.

The precinct of St. Paul's was also enclosed. The bishop's palace was at its northwest corner, the houses of the dean and prebendaries on the south; various colleges of minor canons and chantry priests had halls in or near it. There is no need to enumerate these here, nor the other London colleges, attached to parish churches (like Whittington's to St. Michael Royal), nor all the little hospitals or almshouses (such as St. Augustine Papey for aged priests), nor the chapels and hermitages: for none occupied much space, and the abolition of most of them by Henry VIII or Edward VI did not appreciably affect the amount or distribution of the population of London. But it must not be forgotten that not only the local monasteries but many of those in the country owned much London property, besides the houses where their abbots or priors stayed (as the phrase went) 'in parliament and term-time'—*i.e.*, when the law-courts were sitting. Of one of these the exact site can still be seen: it may be taken as typical. Behind the church of St. Swithin London Stone, opposite Cannon Street Station, lie the peaceful courtyard and hall of the Salters, on ground whose occupants can be traced back to Henry FitzAylwin, the first mayor. His great-grandson gave the mansion there to the priors of Tortington, who held it till the dissolution.

Several of the bishops' palaces were beyond Temple Bar; but the few survivors of the mediæval nobility mostly, as of old, had houses in London. Lord Willoughby's was in the Barbican, and those of the Nevilles—the Earl of Westmorland and Lord Bergavenny—were near Cripplegate and Ludgate respectively; others in the crowded quarter south

of St. Paul's, and along Thames Street to Coldharbour, a little west of the Bridge. There was the king's house, Baynards Castle, and his 'Great Wardrobe,' or storehouse; there were the Inns of Lord Montjoy, of the Earl of Derby, and of the Bishop of Hereford, and also Beaumont's Inn, known as Huntingdon House after 1529, when its owner, George Hastings, received that earldom. By Dowgate there was a great house called the Erber, which had belonged to the Duke of Clarence; it was granted by Henry VII to the Earl of Oxford, but restored on his death in 1513 to Margaret, Countess of Salisbury. South of this, by the riverside, was the Steelyard, the London settlement of the Hanse merchants; further east the 'Manor of the Rose,' in Suffolk Lane (which was soon to pass from the de la Poles to the ill-fated Duke of Buckingham), and Coldharbour, the Lady Margaret's manor, a 'privileged place' or 'liberty,' exempt, like the monastic precincts, from civic jurisdiction. Another such place, just outside the city, belonged to the Bishop of Ely, whose splendid mansion stood in the grounds made famous by two lines in *Richard III*:—

> My lord of Ely !—When I was last in Holborn
> I saw good strawberries in your garden there.

The Bishop of Bangor's house was near St. Andrew's Holborn, those of the Bishops of Salisbury and St. David's off Fleet Street, the Bishop of Winchester's in Southwark.

Most if not all of these Inns were built of stone; the more ancient resembled the fortress-palaces of an Italian city, with their inner courtyards behind massive gates, and were quite unlike the houses of the citizens. Stone is not a local building material; and though a few citizens had mansions like Crosby Place, partly constructed of it, the ordinary London house was timbered. Even brick was not generally used till after the Great Fire, except for foundations: the materials were often lath and plaster, within a 'frame' of great beams.

There are few existing remains to aid the imagination in reconstructing the magnificent ecclesiastical buildings of pre-Reformation London. The only monastic church of which the whole is still standing (though much restored, and the nave rebuilt), St. Mary Overies in Southwark, was in 1530 rivalled by at least eight others: four belonging to the friars, St. Bartholomew's Priory, St. John's Clerkenwell, St. Martin's,

and Holy Trinity Aldgate. Fragments, much altered, of three of these remain—the choir of St. Bartholomew's, the choir and crypt of St. John's, the nave of Austin Friars' ; and it is known that the church at Aldgate (unlike St. Bartholomew's, with its Early English nave) was Norman, that St. Helen's was partly built in the thirteenth century, but had later additions, and the others dated for the most part from the fourteenth or fifteenth century. Austin Friars' had a ' fine spired steeple, small, high and straight.'[4] This is conspicuous, above the long lines of its nave and chancel, in the centre of Wyngaerde's panorama (c. 1550), on which, too, the square tower of St. Mary Spital stands out against the northern skyline, and St. Mary Overies is drawn in detail in the foreground. But the chief features of that view of London (as of all others till after the Fire) are the number and variety of the steeples of the parish churches ; the fantastic beauty of the Bridge, with houses from end to end, and its tall chapel in the midst ; the large space given to the Tower ; and the grandeur of Old St. Paul's, dominating the whole. Like other mediæval cathedrals, this rose from a cluster of subsidiary buildings : a fine chapterhouse, in two stories, the usual meeting-place of the upper and lower houses of Convocation, on the south ; on the north the cloisters, adorned with famous frescoes of the Dance of Death ; and east of them, beyond the open space around Paul's Cross, a gilded bell-tower, Jesus steeple. The chief secular public buildings were the Guildhall, rebuilt in the fifteenth century ; the Customhouse, by the riverside, near the Tower ; and the three markets—Bakewell Hall, for woollen cloths, in Basinghall Street ; the Leadenhall (which was also a granary) ; and the Stocks market, a large covered open space in the centre of the city. Most of the Companies possessed halls, some—*e.g.*, the Mercers', Grocers', Fishmongers', Goldsmiths', Skinners', Merchant Taylors', Haberdashers', Vintners', and Clothworkers'—being on their present sites.

The first phase of the transformation was one of increasing magnificence, the Londoners being at one with their kings in zeal for architecture. Henry VII rebuilt Baynards Castle, henceforth ' not embattled, or so strongly fortified castle-like, but far more beautiful and commodious.' Henry VIII,

[4] Stow, *Survey*. All subsequent quotations are from that work, unless otherwise indicated.

probably desiring more room for spacious halls, gardens and courts than could be found down Thames Street, spent between 1515 and 1522 over £14,000 (equivalent to at least £200,000 now) in building a new mansion, Bridewell, between Fleet Street and the Thames, along the bank of the Fleet river, over which was made a 'gallery,' or bridge, passing through an opening in the city wall, to connect the palace with the Black Friars' convent. The spacious buildings of this, including a Chapterhouse, 'as a Parlement hous y-peynted aboute,'[5] and a hall known by 1529 as the Parliament chamber, had always been used for occasional sessions of the Council and for other state purposes; Parliament had met there in 1311 and 1449. Under Henry VIII it became, for a few years, almost as closely associated with Baynards Castle and Bridewell as was the Abbey with the palace at Westminster. The Emperor Charles V stayed there in 1522, his followers being lodged in Bridewell; and there, in 1529, the Cardinals sat to judge between Henry and his Queen. Parliament was summoned thither in 1513 (but was prorogued, and met at Westminster); met there in 1523, and again in 1529, when it was, however, immediately adjourned to Westminster, because one of the recurrent outbreaks of plague which desolated the city during the Tudor period had begun between its summons and its meeting. That epidemic marks an epoch in the history of London. For henceforth Henry deserted Bridewell, Whitehall succeeding it as his town house; and never since 1529 has any English sovereign resided in the city, or summoned his Parliament to meet him there. Thus, almost by accident, ended the close if occasional contact of City and Court which had endured since Saxon kings dwelt in Aldermanbury, behind the Guildhall.

Meanwhile Charles Brandon, Duke of Suffolk, had erected in Southwark a 'most sumptuous house,' curiously pinnacled, and Sir Thomas Wriothesley the Garter House in the Barbican; Bishop Booth of Hereford had repaired the ancient Inn of his see; and the citizens were building many 'fair houses,' some elaborately decorated. Thomas Wood, sheriff in 1491, adorned the southern side of Cheap, and enriched his Company, by erecting Goldsmiths' Row: 'ten fair dwelling houses and fourteen shops, all in one frame,

[5] *Pierce the Ploughman's Crede* (E.E.T.S.), p. 8. The whole description (c. 1400) was probably suggested by the London convent.

uniformly builded four stories high, beautified towards the street with the Goldsmiths' arms and the likeness of woodmen (in memory of his name) riding on monstrous beasts . . . cast in lead, richly painted over and gilt.' On the northern side, aided by Sir John Allen, mayor in 1525–6, the Mercers' Company erected a 'beautiful chapel, arched over with stone,' and their hall above it, in front of St. Thomas of Acon, which they had taken under their protection, and helped to repair its buildings. The famous steeple of old St. Mary-le-Bow, with its four flying arches beneath the lantern, was finished in 1516. Enlarging and alteration of parish churches was going on all over the city. St. Mary Aldermary was rebuilt so magnificently that Wren adopted the same style after the Fire ; the present St. Andrew Undershaft dates from 1520 to 1532. Meanwhile, one of Henry VII's ministers, Sir Thomas Lovell, had built the King's Weighhouse upon Cornhill (which he gave to the Grocers, being a member of that Company), and the gatehouse, still standing, of Lincoln's Inn. A second existing gatehouse, at Clerkenwell, was erected under Thomas Docwra, Lord Prior of St. John's from 1501 to 1527, who also made many additions to his church ; and some fine work of his contemporary, Prior Bolton, yet remains at St. Bartholomew the Great. Several citizens helped to rebuild the church of St. Anthony's Hospital, about 1500 ; and the City helped the Minoresses and the Crutched Friars to rebuild their churches about 1520–9.

St. Anthony's may have owed its good fortune to its famous school, regarded as a civic institution, impoverished by the annexation of the hospital and its revenues in 1475 to the greater royal chapel of St. George's Windsor. In 1503 Henry VII similarly annexed to Westminster Abbey, in aid of his new chapel, the far more important foundation of St. Martin-le-Grand : providing, however, for the support of two canons and the maintenance of services there. St. Martin's could hardly expect sympathy in London, where its sanctuary and other immunities had caused much strife ; but the indifference of the citizens to the financial difficulties in which some of the other houses had become involved was significant. It may well have been noted by Cromwell or Henry VIII. Wolsey had suppressed small convents in various parts of England, leaving London untouched : the real attack on the monasteries began dramatically in 1532 with one both famous

and wealthy, its manifold privileges and immunities lately confirmed by Henry himself. If, they may well have argued, no serious discontent in London follows the fall of Christchurch, Aldgate, whose prior is an alderman, whose property is largely derived from the gifts of citizens, it will be safe to proceed to a general suppression of the Religious Houses.

The prior 'kept a most bountiful house of meat and drink, both for rich and poor . . . to all comers according to their estates'; but his income must have been insufficient to maintain such hospitality, for the convent had long been in debt. By 1532 its liabilities were so heavy that in the deed by which they gave it and all its property to the King, the prior and canons asserted, oddly enough, that it must be ruined unless he, its patron, would find a remedy. No one, apparently, made any attempt to save it, and the City annalist merely notes: 'In July the king put down the prior of Christchurch in London, all the canons of the same place the king sent to other places of the same religion: for because the same prior lived unthriftily and with his ungracious rule brought the same house in debt (so) that he was not able to keep his house and maintain it.'[6] There seems to have been some doubt, however, whether the convent had, legally, power to surrender the whole of its possessions and thus dissolve itself. The Court of Aldermen found it impossible to get a successor to the prior chosen before 1538; and early in 1534 it proved desirable to obtain an Act of Parliament 'for the assurance of Christchurch in London to the King and his heirs.' The Act states that the prior and convent had granted it to him and then departed, 'leaving it profane and desolate for two years and more, whereby the service and obsequies, hospitable alms, etc., which should have been done' there had remained undone. Hence it and its possessions rightfully belonged to the King.

The property thus secured was of great value: that within the city alone, including tenements in sixty parishes, produced over £300 a year. The land in the Portsoken and the rectory of St. Botolph's Aldgate, with the precinct and buildings inside the gate, were immediately granted to Sir Thomas Audley, in reward for his services as chancellor. He offered the vast Norman church, with its ring of bells, to the adjacent parish of St. Katharine Cree (Christchurch),

[6] *Camden Miscellany*, xii. 6.

in exchange for its small church, meaning to pull that down and build houses on the eligible street frontage thus gained. But the parishioners, 'having doubts in their heads of afterclaps,' refused it. Then—as Stow wrote long after, recalling the scene he had watched as a ten-year old boy : 'Then was the priory church and steeple proffered to whomsoever would take it down, . . . but no man would undertake the offer, whereupon Sir Thomas Audley was fain to be at more charges than could be made of the stones, timber, lead, iron, etc. For the workmen, with great labour, beginning at the top, loosed stone from stone and threw them down, whereby the most part of them were broken and few remained whole : and those were sold very cheap, for all the buildings then made about the city were of brick and timber.' The bells were sold to the parishes of Stepney and St. Stephen Coleman Street ; the roofless choir and nave became courts of a splendid mansion, where Audley lived till his death in 1544.

On the whole the experiment, if such it was, had proved successful ; and in 1536 all Religious Houses with incomes of less than £200 a year were suppressed by Act of Parliament. Only one in London, however, Elsing Spital, fell within that category. The parishioners of St. Alphege, whose church, old and dilapidated, stood on the other side of the way, under the Wall, obtained the priory church from the King for £100, converted part of it into a new parish church, built four houses on the street frontage where the north aisle had stood, let the site of their old church, and sold some of its materials to help pay for the new. The transaction involved prolonged negotiations, and the cautious vestry successfully petitioned that the grant should be made in Parliament. The rest of the priory, its buildings and gardens, with the houses in and near the close, was obtained in 1540 by Sir John Williams, Master of the Jewels, who lived in the canons' house ; the cloister garth became a garden, and the 'lodgings for the poor' stabling for horses.

The fate of these two houses may be taken as typical ; that of the others cannot be described in such detail. The crash came in the autumn of 1538. The first to surrender was St. Thomas of Acon, in October ; in November it was followed by all the five houses of friars, the Minories, and the nunnery of St. Helen's ; the few remaining monks of the Charterhouse were dispossessed about the same time ; the

abbey of Tower Hill and St. Mary Spital surrendered before the end of March. The Act securing to the King the property not only of all monasteries already surrendered, but of all which in future should happen to come into his hands, was passed in the summer of 1539; that autumn and winter saw the fall of the nunnery of Clerkenwell, the priory of St. Mary Overy, the priory and probably the hospital of St. Bartholomew, and St. Thomas's Hospital. In 1540 a special Act dissolved the Order of St. John of Jerusalem in England; and in 1542 the one prebendary left at St. Martin-le-Grand and the vicars who intoned the services there were pensioned off. After the Act of 1545 placing colleges and chantries at the King's disposal an inventory of the goods of St. Katharine's was ordered; but, protected by successive Queens, that foundation has survived to this day, though Katharine Parr, by appointing Sir Thomas Seymour master, inaugurated a line of sinecure laymen and a long period during which its eleemosynary side was in abeyance. The indispensable St. Mary of Bethlehem was the only other Religious House in London that was not dissolved.

Thus, within ten years, had all the monasteries in and around London fallen: their buildings stood empty, 'profane and desolate,' many going to ruin as the lead was stripped from the roofs; their possessions were at the disposal of the king and his Court of Augmentations. Current estimates of the income from these, based on the *Valor* of 1535 supplemented from other sources, by no means indicate either the capital value of the property or the potential revenue from it. For the monastic precincts in London were—to use the language of a modern estate agent—'eligible building sites, ripe for development': since, in consequence on the one hand of the growth of trade, with the resulting growth in the number of citizens and their servants and of resident foreigners, and on the other of Henry VIII's policy of frequent and lengthy sessions of Parliament and much activity of government, both the permanent and the floating population of London were rapidly increasing. And even in those 'sites' or precincts which already had some lay inhabitants the convent buildings themselves, each with its garden and outhouses grouped about a large church and cloisters, afforded ample space for more.

Gradually all these areas were occupied (the process seems to have taken about twenty years); and there arose a problem

of great importance in the history of London government—that of the 'liberties,' the 'exempt' or 'privileged' places. An Act of 1540 vested in the King all the 'franchises and temporal jurisdictions' of the Religious Houses; and at least half of the London monastic precincts were thus kept immune from local interference and exempt from local responsibilities. Within the walls there were Blackfriars, St. Martin's, and Holy Trinity Aldgate; in or on the edge of the ward of Farringdon Without were Whitefriars and the two St. Bartholomew's; just beyond the latter were the Charterhouse and the two priories at Clerkenwell; while the Minories, the abbey of Tower Hill, and St. Katharine's stood on ground once part of the Portsoken. The inhabitants of all these precincts had been ruled by the heads of the convents concerned: they were not bound by the manifold trading regulations of the City, and need not obey Acts of the Common Council; and they claimed exemption from the jurisdiction of the mayor and aldermen, and from the levies of men and money so often imposed upon London. After the dissolution their officials were appointed by the justices of Middlesex or of the verge, or by themselves; they did their own paving and lighting, and generally managed their own affairs. Their position, in fact, resembled in some respects that of the well-to-do districts which now border the County Council area, in others that of the City within the County.

Henry VIII is said to have asked: 'Are not we as well able to keep our privileges and liberties as the friars did keep their privileges always beforetime, free from the City?'[7] and it was obviously in the interest of the Tudors to maintain these franchises within and against the City—the greatest Liberty they had, perforce, allowed to continue in England—unless or until the citizens would pay for their abolition enough to outweigh not only their financial value to the Crown, but the powerful influence of the vested interests concerned. Meanwhile its immunities made Blackfriars famous by rendering possible the establishment of one theatre there from 1575 to 1584, and a second in 1600, of which, later, Shakespeare was one of the lessees; and Whitefriars infamous by the growth within it of a bastard 'sanctuary,' or refuge for debtors, the Alsatia immortalised by Scott, where the elements of disorder (encouraged by proximity both to the

[7] Document (? 1562) in 1633 ed. of the *Survey*: in Strype's (1720), I, Bk. iii, p. 184.

river, an easy way of escape, and to the wild students of the Temple) became so strong that no arrest could be effected there without an extraordinary display of force. In 1608 the City bought from James I a charter extending its jurisdiction over Blackfriars and Whitefriars—both of which, however, kept certain exemptions—the two St. Bartholomew's, the precinct at Aldgate, and the liberty of Coldharbour. But even in these places the charter was not altogether effective: and elsewhere, within the walls, the liberty of St. Martin's lasted till 1815; outside, Clerkenwell and the Charterhouse were never included in the City liberties, the Minories and East Smithfield were permanently detached from the Portsoken and became parts of the 'Liberty of the Tower' as defined under James II, and the site of St. Katharine's remained independent till it disappeared under the new dock in 1825. There were other border areas in a similar position: *e.g.*, the Temple, the Liberty of the Rolls in Chancery Lane, that of Ely House (Saffron Hill) north of Holborn, those of Norton Folgate (and, beyond, of Holywell), north of Bishopsgate, and of the Bishop of Winchester (the Clink) on Bankside, west of the borough of Southwark, over which the City obtained jurisdiction by a charter bought from Edward VI. All, like the monastic precincts, were ecclesiastical in origin; all were maintained by similar influences against the liberty of the City, after Henry VIII had broken down the liberties of the Church. The ring of privileged places thus left to encircle ancient London is a factor still potent in London history.

A second problem was that of providing for the sick and other helpless poor, and for the wastrels who, then as now, tended to drift to London: a problem partly at least a result of the dissolution of the four hospitals and of other houses which had practised almsgiving. The civic authorities, well aware of the coming surrenders, were considering this as early as the summer of 1538, when the mayor, Sir Richard Gresham, wrote to the King on behalf of 'the poor sick, blind, aged and impotent persons . . . lying in the street, offending every clean person passing by with their filthy and nasty savours.' He asked that the three remaining hospitals, St. Mary Spital, St. Bartholomew's, and St. Thomas's, and also the abbey of Tower Hill, all 'founded of good devotion by ancient fathers,' and endowed with great possessions for the relief of the poor, might be placed, with their revenues, at the disposal of the

mayor and aldermen, so that 'all impotent persons not able to labour' might be relieved, and 'sturdy beggars not willing to labour' be punished. But nothing came of this suggestion; and next February (the friars' and other convents having meanwhile surrendered, and their churches been closed) the Court of Aldermen decided that a formal petition should be sent from the City, asking not only for the three hospitals and the Cistercian abbey, but for the churches and precincts of the four chief orders of friars. The first part of this was practically a copy of Gresham's letter; the second described some other effects of the dissolution, 'the great infection and other inconveniences' which had followed the closing of the friars' churches, the largest in the city except St. Paul's. Every parish church had as many parishioners as it could conveniently hold; and if everybody who came to London in parliament or term time attended one of them, the parishioners would be 'put out of their pews, and the church pestered with people,' as St. Paul's already was. But the last request in the petition was for 'all the lands and tenements within the precinct of the said houses'—property of enormous value, including some of the coveted liberties; without endorsing the obvious cynical comment that it revealed the real motives underlying the City's action, one may surmise that it destroyed whatever chance of success the rest may have had.

Various entries in their minutes show how the Court of Aldermen laboured to secure a favourable answer; but by August 1540 the Common Council was reduced to offering 1000 marks for the houses and churches of the friars alone, 'if they can be gotten no better cheap.' Henry called the citizens 'pinchpence,' and was told they could not afford more; the mere upkeep of the buildings would be very expensive. Meanwhile the church and convent of the Austin friars had been sold. In 1541, however, he apparently promised the three other churches to the City, and contributions were actually collected from the Companies for the maintenance of the services there; but nothing more came of that part of the scheme. The White friars' church was pulled down in 1545; about the same time Sir Thomas Cawarden, lately appointed first Master of the royal Revels, began to adapt the Black friars' church (which, like those of the Austin and Grey friars, had already been used as a storehouse), with other buildings of that convent, for use in storing

and making the apparatus of those entertainments. The citizens had had to become reconciled to the invasion of their parish churches by outsiders ; and few, probably, attended mass so often, for London was beginning to incline towards innovations in doctrine which had been very unpopular in 1540.

But meanwhile the need for hospitals and for some system of poor relief was growing ever more urgent ; and the outbreak of wars with Scotland and France had shifted the advantage in bargaining from the King to the City, which had helped him with men, with money, and with its credit, pledged for the repayment of large sums advanced by continental financiers. Just before he sailed for Boulogne in 1544 he refounded St. Bartholomew's as a corporation of a master and four brethren, all priests, responsible for undefined 'works of charity.' This organisation, however, was soon superseded: for in December 1545 the Common Council appointed a committee to provide for the relief of the poor and the sick, whose negotiations ended, when Henry VIII was on his deathbed, with the comprehensive agreement in virtue of which he is reckoned as first founder of the 'Royal Hospitals.' The citizens obtained everything, churches, land and buildings, within the precincts of the Grey friars and of St. Bartholomew's hospital (of which the King had meanwhile resumed possession), some of the property formerly belonging to the latter, and the rectorial income and churches of two adjacent parishes ; they were also made governors of the hospital of Bethlem, with all its possessions. A sum equal to the estimated value of the endowment, 500 marks a year, was to be raised in London annually ; provision was to be made for the cure of souls in the area concerned, and all the remaining revenues to be devoted to the relief of the poor.

Early in the new reign a Bill was drafted 'for the assurance' of the property to the City ; but this was, apparently, found unnecessary, and dropped. Some money was collected, and St. Bartholomew's was re-opened ; other measures of relief, however, were delayed till 1552, when Edward VI added St. Thomas's Hospital and its rectory to his father's gift, and the citizens bought its other property from him, and obtained an Act of Parliament ratifying the transaction. They then raised large sums among themselves, collected gifts in kind, and dealt with every variety of poverty under an elaborate scheme. Poor householders were to receive out-

door relief, the sick to be tended at St. Bartholomew's, the permanently infirm at St. Thomas's, the children to be fed, clothed, and educated at Christ's Hospital (founded in the buildings of the Grey friars), the undeserving, vagabonds and worse, made to work in Bridewell. For, when he was dying, Edward VI gave also that palace, used since 1531 as a residence for ambassadors, but fast deteriorating; and Mary reluctantly relinquished it in 1556. A contemporary[8] explains that although it had been lately erected at 'an infinite charge,' the situation (probably because of much new building about St. Bride's) by 1553 'was such that all the cost was cast away: there was no coming to it but through stinking lanes or over a filthy ditch'—the Fleet—'which did so continually annoy the house that the King had no pleasure in it.'

Thus were founded the five Royal Hospitals, and the City acquired for social purposes much property once ecclesiastical. The process had involved, besides some parochial reorganisation, the secularisation of the sites, buildings and ornaments of two old churches, St. Nicholas Shambles and St. Ewen's, and of the tithes from their parishes and that of St. Thomas', Southwark. One important general result of the dissolution had been the transference of large sums derived from such 'spiritualities' to laymen, who often failed to provide for the spiritual needs of the parishes concerned: a citizen had already observed that their conduct could only be justified by 'the xiii article of our Creed, added of late, that . . . Parliament cannot err.'[9] No parish in London would allow itself to be thus neglected; but the changes there had the effect of reducing the number and the incomes of the parochial clergy, and making some of them more dependent on their parishioners or other laymen. The Grey friars' church, renamed Christchurch, became parochial, its parish including those of St. Nicholas, St. Ewen, and the part of St. Sepulchre's within the Wall, and also the children and officers of Christ's Hospital, and the other inhabitants of that precinct; it was served by a vicar appointed and paid a fixed salary by the City. The close of St. Bartholomew's Hospital likewise became a parish, worshipping in the hospital church, with a vicar in a similar position; and the citizens were bound to pay two ministers, dismissible at will, one for the inhabitants and the other for the sick, at St. Thomas's.

[8] J. Howes: see below, p. 313. [9] *Complaint of Roderyk Mors* (E.E.T.S.), p. 35.

Another parochial reorganisation which, though less drastic, was sanctioned by an Act of Parliament, had already taken place: in 1540 the parish of St. Mary Magdalene, Southwark, whose church had been a chapel in the angle between the choir and south transept of the church of the priory of St. Mary Overy's was united with the larger parish of St. Margaret; and the new parish, called St. Saviour's, bought the whole of the priory church. At St. Bartholomew's priory 'le Parishe chapell,'[10] a part of the priory church, was taken from the inhabitants of the close after the surrender, pulled down, and its materials sold. But in 1544 the King gave them the choir of the priory church, which was still standing, and established it as the parish church of St. Bartholomew the Great; declared that all the houses and land within the close should be for ever of its parish; and made their curate the first rector, giving the advowson to Sir Richard Rich, who had bought the close and the priory buildings. In 1555, however, Rich gave up the whole, including the church, to Queen Mary, who established a Dominican convent there; but in 1559 it was finally made parochial by a clause in the Act of Parliament restoring to the Crown the monasteries she had founded.

Other parochial results of the dissolution seem to have been merely developments of existing practice in the precincts concerned. St. Katharine Cree, which had been dependent upon the priory of Holy Trinity but had long had a separate church and its own curate, was soon regarded as an ordinary parish. At Blackfriars the inhabitants formed the parish of St. Anne, appointing its own curate; but they were turned out of their chapel by Sir Thomas Cawarden, and did not acquire a permanent church till 1597. Clerkenwell was certainly regarded as a parish by 1550, so that an arrangement similar to those at St. Bartholomew's and Blackfriars had probably existed there before the dissolution; and the inhabitants of the two precincts obtained the nunnery church, renamed it St. James's, and, like those of Blackfriars, appointed and paid their curate. There was a similar development at the Minories, where the church was called Holy Trinity; but in that close, apparently, there had been no parochial organisation before 1539. The liberties of the Charterhouse and of St. Katharine's remained permanently non-parochial, their inhabitants continuing to

[10] Grant to Rich, in E. A. Webb's *St. Bartholomew's*, i. 516.

worship in the chapels there. The other precincts ultimately became merged in neighbouring parishes, except at Aldgate, where the tenants of the new dwellings within the close at first 'made themselves parishioners'[11] of St. Katharine Cree; but eighty years later they acquired a church and formed the parish of St. James Duke's Place.

Including Elsing Spital (St. Alphege) ten monastic churches were thus saved, wholly or in part, for parochial or semi-parochial use; and with them may be reckoned St. Helen's, where the parishioners obtained the nuns' aisle and so doubled the size of their church. Four others also remained places of worship. In 1541 the Mercers bought the site and all the buildings of St. Thomas of Acon from the King, undertaking to keep up a free grammar school and services in the church, which is represented by their present chapel; their old chapel fronting Cheapside they transformed into shops. At St. John's Clerkenwell, the choir of the church was preserved, and was used by the Knights to whom Mary restored the buildings in 1557; later, after a period of desecration, it became a private chapel, and, ultimately, the church of a new parish. The German or Dutch-speaking Protestant congregation in London obtained the nave of Austin friars, which it still uses; and the similar French-speaking congregation the chapel of St. Anthony.

But four of these fifteen churches were partly destroyed, and very few escaped spoliation and desecration; while the remaining eight (Holy Trinity Aldgate, those of the Black, White, and Crutched friars, St. Martin-le-Grand, Bethlehem Hospital, St. Mary Spital, and St. Mary Graces) were altogether converted to secular uses. At Austin friars Sir William Paulet used the steeple and choir 'for stowage of corn, coal and other things: his son . . . Marquis of Winchester sold the monuments of noble men, there buried in great number, the paving stone, and whatsoever (which cost many thousands) for £100, and in place thereof made fair stabling for horses.' At Grey friars many tombs of marble and alabaster were destroyed to raise funds for Christ's Hospital; and everywhere brass or latten, 'slave to mortal rage' of fanaticism or avarice, was torn from the graves and sold. The stone walls of the convent buildings made them safer for storehouses and for certain industries than

[11] *Survey*, edition 1633; in Strype's (1720), I, Bk. ii. p. 58.

others in the timber-framed city: under Henry VIII the King's hunting-nets and tents were kept in the churches at the Charterhouse and at St. John's, and under Elizabeth the main buildings of the latter succeeded those of the Black friars as the headquarters of the Revels, while the Minories became an armoury, St. Mary Graces a depot for naval stores, with great ovens for baking biscuits, and glass-houses were established at the Black, White, and Crutched friars.

In London, as elsewhere, monastic buildings also served as quarries. As early as 1539 Cromwell noted that stone from the Crutched friars might be used for repairs at the Tower; and the nave of St. Bartholomew's had been pulled down before 1544. The porch of St. John's was carried off to adorn the church of All Hallows the Great, and Protector Somerset blew up the nave with gunpowder to obtain stone for his new palace in the Strand. Even St. Paul's was despoiled. Jesus steeple in the Churchyard, valuable for the metal in its peal of bells and its leaden covering, was granted away by Henry VIII; Somerset, needing yet more stone, pulled down the cloisters; and various chapels were destroyed about the same time. Then came the calamity from which Old St. Paul's never recovered: in 1561 the spire was struck by lightning, and the fire which followed ruined it and damaged much of the church. Large sums were raised for repairs, but the spire was never rebuilt. St. Paul's also suffered from the same demand for houses and shops as was encouraging many city vestries to deface their churches by building along the street frontages: sheds at first, and then houses, were put up in the Churchyard, hiding the lower part of the cathedral and of its beautiful chapterhouse.

Thus when Shakespeare came, about 1585, to live in London, he saw there many 'ruined choirs,' much that was ancient and costly defaced; towers razed,—'state itself confounded to decay.' The words apply not only to monastic buildings: several of the great stone houses erected by mediæval kings and magnates were, like Bridewell, converted to base uses in the latter part of the sixteenth century. Often they were divided, very profitably to their owners, into many small tenements; they deteriorated into slums. Such was the fate of the Bishop of Hereford's Inn (part of which became a sugar factory), and of Coldharbour. This had been used for a time by Bishop Tunstall instead of Durham House near Charing Cross (lost by one of those exchanges, ratified in Par-

liament, which under the Tudors so greatly diminished the value of ecclesiastical property), and then by the Earls of Shrewsbury; later they deserted it, and built there many small tenements which let at great rents,—probably because, being a liberty, it became, like Whitefriars, a crowded 'sanctuary' for debtors. The Steelyard was closed for eight years after 1598, and never recovered its former prosperity. Near it was erected an engine for raising water from the Thames, the supply from wells having become insufficient for the City; another was at the northern end of the Bridge. The chapel on the Bridge was defaced, its lower part a warehouse, its upper a dwelling. The stone tower at the end of the drawbridge, being ruinous, was taken down in 1577, and the traitors' heads set up on the southern gate, whence their sightless eyes stared over Southwark, which had become, like Thames Street, an example of the migrating tendency that has so often changed the character of once fashionable parts of London.

Lord Montague, son of Sir Anthony Browne, who had bought the priory of St. Mary Overy, still lived in that close, secluded between the church and the river,—convenient for him and his friends, faithful to the old religion; and the Bishops of Winchester, when in town, remained his neighbours. But in 1536 Henry VIII had given the Duke of Suffolk the Bishop of Norwich's house at Charing Cross (obtained by another exchange), instead of his Southwark mansion, where he set up a Mint; Mary gave it to Archbishop Heath, as some compensation for the palace in Whitehall that her father had taken from Wolsey; he sold it, and the purchasers 'pulled it down, sold the lead, stone, iron, etc., and . . . builded many small cottages of great rents, to the increasing of beggars in that borough.' The Abbot of St. Swithin's house, having been held by Lord Russell, the Bishop of Rochester and the Earl of Southampton under a series of exchanges, and that of the Abbot of St. Augustine's, occupied for a time by the St. Legers, had both been divided into tenements; those of the Abbots of Hyde and Battle and the Prior of Lewes were transformed into three of the fine hostelries for travellers for which the Borough, now a 'ward without,' was renowned. It was thickly populated, and, if no longer fashionable, prosperous enough: its muster when men were levied, and its quota to a subsidy, surpassed those of any city in England except London.

Another quarter which altered much during the period was that to the north-east and east of the Tower. Henry VIII made the Bishop of Bath and Wells take the convent buildings of the Minories in exchange for his mansion in the Strand. Bishop Barlow restored them to Edward VI, and they were held for some time by the Greys; but they were bought back for Elizabeth by the Marquis of Winchester, because the floors in the Tower were breaking under the weight of her ordnance. Meanwhile those of the neighbouring abbey on Tower Hill had been taken down or altered ; and, besides the Queen's victualling stores and ovens, many small tenements and 'homely cottages' had been built in that precinct and St. Katharine's, housing a population largely seafaring or foreign. The Minories and East Smithfield, thus devoted to military and naval equipment, were so closely associated with the older armoury and stores in the Tower that they naturally merged, later, into that Liberty. Beyond them lay a region where in the middle of the century 'was never a house standing'; during the long reign of Elizabeth it became 'a continual street or filthy strait passage, with alleys of small tenements or cottages,' by the riverside, past Wapping and Shadwell, almost to Ratcliff. There were still fields between these and the road running eastward from Aldgate; but both sides of that were 'pestered with cottages and alleys' to half a mile beyond Whitechapel Church, encroaching upon the common which had once made pleasant the eastern approach to London. There were similar areas beyond Bishopsgate, towards Shoreditch, and also outside Newgate, on the slopes down to the Fleet. Many spaces formerly open became covered with buildings during the century, including churchyards: a number of parishes had thus disposed of the whole of theirs, and were using St. Paul's, in 1582, when some of them were ordered to resort to the new cemetery west of Bethlem, given to the City by Sir Thomas Rowe in 1569. Old and new houses alike were often crowded with 'inmates' or lodgers: in 1583 the Mayor stated that in Fleet Street and the neighbourhood there was not one which did not either let rooms or become an eatinghouse in term-time.

Dread of plague and famine at last drove the authorities to attempts at checking the growth of London. In 1580 the Mayor appealed to Burghley, because many of the new inhabitants were not citizens, and the areas chiefly affected were

the 'exempt places' and others outside his jurisdiction, 'as about the Charterhouse, Mile End fields and . . . from St. Katharine's along the waterside.' He also complained of the multitudes of 'strangers' from abroad, eating out the Queen's subjects who bore the burdens of citizenship, and increasing the danger of infection. The result was a proclamation forbidding the erection of new houses within three miles of any of the gates, and the inhabiting of any house by more than one family; and on the next alarm of plague, in 1593, similar prohibitions were embodied in an Act of Parliament. They were little regarded, however, the offenders being often great personages like the third Lord Rich (afterwards Earl of Warwick) who had begun about 1590 to build over the priory churchyard of St. Bartholomew's, formerly only occupied by booths in the Fair time.

But this immense increase in the population of London had aspects of more permanent significance than the squalor which disgusted Stow, and the overcrowding which the authorities spasmodically endeavoured to control. It was not only its wealth but its 'frequency' that made the city so terrible; that enabled it, when men were needed for service abroad in 1585 and 1589, to furnish a quarter of those raised from the whole of England. Among the crowds of 'strangers' mostly refugees, who settled in London under Elizabeth, were many whose industry enriched it; among the non-citizens, the 'foreigners,' was Shakespeare. During the sixteenth century the English Press and the English Stage became established in London, attracting men of ability from all over the country: a great company of writers was henceforth numbered among her inhabitants, and a new, incalculable element added to her sources of strength. And in the riverside outgrowth so disliked by Stow sojourned those 'noted seamen at Wapping' from whom Hakluyt, a canon of Westminster, gathered the material for his *Principal Navigations*.[12] For London was closely associated with the maritime activities of the time; Drake himself, from 1588 to 1593, held the Erber as a tenant of his Company, the Drapers, who had invested some trust-money in that great house in 1541.

The Drapers had also acquired Cromwell's house by Austin Friars as their hall, while the Leathersellers became possessed of the convent buildings at St. Helen's, and the Stationers (who,

[12] Wood, *Athenae Oxon.* (ed. Bliss, 1815), ii. 186.

however, moved in 1611 to Bergavenny House) of a hall on the site of one of the Colleges formerly attached to St. Paul's. The Merchant Taylors, in 1561, founded their school in the Manor of the Rose ; Derby House, not far from the new College of Physicians, became the Heralds' College, and Lord Montjoy's Inn Doctors Commons, the headquarters of the ecclesiastical courts. Such 'interchange of state' was as common as 'state confounded to decay' in Shakespeare's London. The trend of fashion westward was as yet barely perceptible ; and since there were many more secular magnates needing residences in town under Elizabeth than under Henry VII, there were more of their great houses to adorn the city, besides those of wealthy merchants such as the Greshams. Thus the last, the Elizabethan, phase of the Tudor transformation was, like the first, one of increasing magnificence: only the new stateliness differed from the old in being wholly secular.

Five of the Religious Houses had become splendid mansions. One of these, the Charterhouse, occupied successively by Lord North and the Duke of Norfolk, yet remains, preserved by Thomas Sutton's great foundation of 1608. The others were St. Bartholomew's priory, Austin Friars, Christchurch Aldgate, Crutched Friars (now belonging to Lord Lumley), and St. Mary Overies. Elsing Spital was the house of a rich citizen; the Bishop of Salisbury's fine Inn was kept up by the Earl of Dorset, who had obtained it in 1564 by a forced exchange ; and Elizabeth had also obliged the Bishop of Ely to give a site in the grounds of Ely Place to Sir Christopher Hatton. The Earl of Oxford lived in the prior of Tortington's house by London Stone, Sir Thomas Heneage in that of the Abbot of Bury, Bevis Marks ; Thomas Randolph, Sir Drew Drewry, and two aldermen, in those of the Abbots of York, Ramsey, St. Albans and Waltham. Outside Cripplegate Willoughby House and the Garter House still adorned the Barbican ; in the same quarter, but inside the wall, their ancient Inn was still occupied by descendants of the Nevilles, and old mansions had been rebuilt by Sir Nicholas Bacon and by William Fleetwood, the famous Recorder. Farther east, in Bishopsgate, was the great quadrangle of Gresham House, which after 1597 became Gresham College ; along that street, within and without, were many other fine houses, among them Crosby Place, often used as a residence for ambassadors, and Fisher's Folly, where the

Queen twice stayed when on progress. Although Elizabeth never resided in the city, she paid several visits to Baynards Castle, where the Herberts, Earls of Pembroke, had been established as Keepers since 1546; and she often stayed at the Charterhouse, with Hatton at Ely Place, and at various great houses in and round London, including that of Lord Cobham, who, with other magnates, kept up the aristocratic traditions of Blackfriars. Close by, Sir John Fortescue, its Keeper, lived in much state at the Great Wardrobe, and the Earls of Huntingdon at their ancient Inn by Paul's Wharf. Walsingham resided in Seething Lane; his brother-in-law Sir Walter Mildmay, and other persons of importance, in Bartholomew Close. Everywhere in the city were to be seen the 'fair houses' of the merchants; in the midst was the symbol of their prosperity, the first Royal Exchange, opened by the Queen in 1571. It is clear from contemporary maps that many garden plots remained, even within the walls; the new slums were like those of a country town, off picturesque streets leading out to the open fields. Spenser's Merry London, if not so beautiful as Dunbar's Flower of Cities All, was still 'an ornament to the realm.'

E. Jeffries Davis.

NOTES

This is an essay in historical arrangement of data for the most part already collected, topographically, in the following works: Stow's *Survey* (1598, 1603); the articles by Miss M. Reddan on Religious Houses in *V.C.H. London*, vol. i. (1908); Mr. C. L. Kingsford's notes to his edition of the *Survey* (1908), 'Notes on Mediæval Houses' and 'Topographical Gleanings' in the *London Topog. Record*, vols. x–xiii. (1916–23), and 'London Houses of the Tudor Period' in *Archæologia* lxxi. (1921); various articles by Dr. Philip Norman, particularly those on Coldharbour etc., and the Steelyard, *ibid.* lvii. (1901), lxi. (1909). The original authorities for most of my statements (too numerous for citation here) may therefore be traced through the names of the places concerned, the *Survey* having been provided with an excellent index by Mr. Kingsford (to whom, especially, my obligations will be evident to every student of London history), and the later works being fully documented. A few additional references will be found in my own article in the *V.C.H.*, pp. 260, 275, 284, 285–7. The notes below are strictly supplementary to all those works. The research upon which this paper is based has, naturally, revealed many more *addenda* and *corrigenda*, not relevant here; those concerning the sites, etc., of the monasteries will be indicated in notes, with bibliographies including both original and secondary authorities, which I hope shortly to publish.

The relevant Acts of Parliament. Dissolutions and grants: *S.R.*, iii. 489, 569, 575, 683, 733, 778, 988; iv. 397; Acts mentioned *ibid.* iii. p. xxxvi. (St. Saviour's

Southwark: summary in *L. & P.* xv. p. 217, c. 64); iv. p. xiii. No. 28 (St. Thomas's etc.: *cf.* Pat. in *Supplement, ut infra*). Exchanges: *S.R.*, iii. 595 (*cf.* 608), 687, p. xxxiii. No. 25 (printed by Tomlinson, *The Minories*, p. 80; *cf. L. & P.* xiv. (1) 867, c. 25); *L. & P.* xvii. 28, c. 43 (*cf.* xiv. (1), 867, c. 26), and 35 Hen. VIII, Priv. Act 2, in *S. at Large*. 'Liberties': *S.R.* iii. 770; *Acts* 8 and 9 Wm. iii. c. 27, §15; 9 Geo. i. c. 28; 55 Geo. iii., c. xci., §§71–8. Buildings: *S.R.*, iv. 852.

Anticipations of Reformation changes: V.C.H., i. 252–3, 266 (*cf.* 284), 283; *supra*, pp. 296, 300.

Supplies furnished to Tudor sovereigns: Rec. Corp. cited by R. R. Sharpe, *London and the Kingdom* (1894), i. cc. xii–xviii. *passim*; *cf. L. & P.* and *Cal. S.P. Dom.*, *passim*, and the 'Apology,' in *Survey* (1908), ii. 204, 213–4. I do not agree with Mr. Kingsford (ii. 387) that this tract was evoked by the proclamation (7 July 1580) against building, issued (*supra*, p. 308) at the request of the mayor (17 June): it was an answer to 'objections . . . against the growing greatness of London' (ii. 195) in power, not in size, and an endeavour to prove that the city served the whole realm, in respect of which it was 'a subject and no free estate' (ii. 206).

Site. See the 'Apology,' *ut supra*, ii. 200, and, for the importance and limits of the gravel, C. E. N. Bromehead, *Geographical Journal*, Aug. 1922.

Maps and Views. Facsimiles published by L. Topog. Soc. For dates and value, see Dr. W. Martin, *L. and Middx. Arch. Soc. Trans.*, N.S., vols. iii., iv. Wyngaerde's is often confused with the pretty engraving, of no value historically, based upon it in general design but with innumerable alterations and additions, made by N. Whittock about 1849 and frequently reproduced,—*e.g.*, in Besant's *Tudor London*, and, thence, in G. E. Mitton's *Maps of Old London*.

Priories of Austin Canons (p. 289). Those without Bishopsgate and within Cripplegate were classed by Dugdale and in the *V.C.H.* as hospitals, and are not in the map appended to Gasquet's *Hen. VIII and the Monasteries*. But see *Chapters of the A. Canons*, ed. Salter (Cant. and York Soc., 1922), pp. 274–5, 278 (*cf.* pp. xxxviii, 123–32); and *Valor Ecclesiasticus* (Rec. Com.), i. 390, 402.

Works on monastic precincts, and the parishes and extra-parochial areas there. E. A. Webb, *St. Bartholomew's* (1921); for Blackfriars and St. John's, E. K. Chambers, *The Tudor Revels* (1906) and *The Elizabethan Stage* (1923), ii. 475–515, and other works there cited; on the Charterhouse, by W. F. Taylor (1912) and G. S. Davies (1921); *Clerkenwell*, by J. and H. Storer and T. Cromwell (1828); on St. Katharine's, by A. C. Ducarel (1782) and F. S. Lea (1878), which should be used together; on St. Martin's, by A. J. Kempe (1825)—*cf.* Miss Thornley's essay, *supra*; *The Minories*, by E. M. Tomlinson (1907),—the best introduction to the subject, in its relation to the problem of London government. But even in this there is some confusion between the two claims for exemption from jurisdiction, civic and ecclesiastical. For the latter (ignored in my essay) see the ineffective letters patent to Bishop Ridley, in *Foedera*, xv. 224; *cf.* Newcourt, *Repertorium*, i. 562. Both aspects of the subject need thorough investigation, beginning with a chronological (not topographical) search among the records of the city and the diocese respectively; each precinct has hitherto been considered in isolation, by writers whose historical equipment was technically inadequate, and who were not concerned with the history of London as a whole. The points at issue between the inhabitants of such areas and the civic authorities are clearly indicated by the statements laid in 1579 before the two Chief Justices, to whom the controversy had been referred by the Council, which, however, refused to accept their decision (*Acts of the P.C.*, x. 429; xii. 19, *cf.* 21). That of the inhabitants (wrongly dated) is in Strype's *Survey* (1720), I, Bk. iii. pp. 178 *seqq.*; the City's in Rec. Corp., Letterbook Z, fos. 23–27 vo., where it is followed by the opinion of the Justices, printed by C. M. Ingleby, *The Shakespeare Controversy* (1861), p. 250, from a Bridgewater MS. For lay inhabitants of the precincts before the dissolution see, besides documents quoted in the works on St. Bartholomew's (i. 516), St. Martin's (p. 205), the Minories (pp. 58, 84), and St. Thomas's (*ut infra*, p. 7), *L. & P. Hen. VIII*, iii. 2486 (Blackfriars),

xxi. (1), 147. 2 (St. Katharine's), and various grants, *e.g.*, xv. 831 (79) (St. Mary Spital), which imply existing tenancies.

Extent of ecclesiastical property (pp. 289–92). For a limited area see Mr. W. G. Bell's *Fleet Street* (1912), p. 206. His map would have been even more amazing if he had included most of the site of Bridewell, much of which belonged to the Knights of St. John, and some to Faversham Abbey : *Foedera*, xiii. 269 (cf. *L. & P.*, v. 627 (18), *S.R.*, iv. 403) ; *L. & P.*, iii. 1177.

Baynards Castle (p. 293). *Cf.* its appearance in the panoramas of Wyngaerde (c. 1550), Visscher (1616) and Hollar (1647). The following, referring, *inter alia*, to meetings of the Council there, may be added to the references in *L. Topog. Record*, x. 62–3 : *L. & P.*, i. (new edn.), 1420, 1801, 1836 (32), 1982 (*cf.* 2010), 2055 (80), 3018 ; xiv. (1), 190.

Bridewell (pp. 294, 303). See the book by the Rev. E. G. O'Donoghue (1923). My statement of the cost, from ' The King's Payments,' in *L. & P.*, ii. pp. 1468–79, iii. pp. 1535–44, and No. 2750 (*cf.* ii., App. 30, the estimate in iii. p. 1547, and iii. Nos. 576, 700), corrects one of the *errata* in that pioneer work. Stow's accounts both of Bridewell and Blackfriars are inaccurate.

Blackfriars (p. 294). Parliaments there : *Liber de Antiq. Legibus* (C.S.), p. 251 ; *Chron. of L.* (ed. Kingsford), p. 158, and *Rot. Parl.* p. 171 ; *ibid.* in *L.J.*, i. pp. xlv. lxxv and cxlviii–ix., cli, and Hall, *Chron.* (edn. 1809), p. 764. Other uses, 1512–29 : *L. & P.*, i. (new ed.), 1420, 3017 (2) ; ii. p. 1494 ; iv. 1043 ; Hall, *op. cit.*, p. 756 ; and B.M. MSS Cotton Vitel. B. xii. fos. 7 and 46, 43, 44 (old numbering) ; Royal 7. C. xvi. f. 254 : ' . . in quadam maiori camera superiori vulgo the parliament chamber appellata ex parte occidentali claustri monasterii et prope ecclesiam Conventualem fratrum ordinis predicatorum civitatis london' notorie situata. . . .' The summaries of these documents in *L. & P.* iv. 5613 obscure the topography by telescoping all the three phrases in which the room is mentioned.

Holy Trinity, Aldgate (pp. 296-7). See *L. & P.* i. (new), 1804 (24) ; (old, dated 1518 in new), 1639 ; ii. 115 ; Surrender in *Foedera*, xiv. 411 ; *S.R.*, iii, 489 ; facsimiles of plans, c. 1592, at Hatfield (*cf.* Hist. MSS. Com. *Cal.* xiv. 48), in *Home Counties Mag.* ii. (1900), p. 45 ; A. B. Beaven, *Aldermen*, i. 181, ii. 30. There are *errata* in the *V.C.H.* account.

Dates of dissolution (pp. 297-8). Minoresses : *Cal. S.P. Dom.*, 1601–3, *with Addenda*, p. 541. Charterhouse : *L. & P.* xiii. (2), p. 437. Clerkenwell : *ibid* xiv. (2), 133. St. Katharine's : *ibid.* xxi. (1), 309, *cf.* 302 (30).

Value of property (p. 298). Dr. Savine's calculations in *Oxford Studies in Social History*, i. (see especially p. 217), being based on the *Valor*, omit all five friaries, and Aldgate, besides ignoring the sites.

The Royal Hospitals (pp. 300-3). The most important documents have been printed by the Corporation in *Memoranda relating to the Hospitals* (1836, reissued 1867) and its *Supplement*, mainly on St. Thomas's (1867). Other extracts from their records are in *Vicary's Anatomie* (E.E.T.S., 1888). See also *L. & P.* xiii. (2), 13, 72 ; xiv. (1), 172, 1354 (37); xxi. (2), 648 (47)—the resumption of St. Bartholomew's, not discovered when Sir N. Moore wrote his *History* (1912)—and 771 (14) ; A. H. Johnson, *The Drapers*, ii. (1920), 63, with Prideaux, *Goldsmiths*, i. 50, and the chronicles, as *V.C.H.*, i. 280, 286–7. Contemporary accounts, by persons concerned, are in J. Howes' *Brief Note (on the) Hospitals* (ed. W. Lempriere, 1904) and Grafton's *Chronicle* (edn. 1809), ii. 529-31 ; *cf.* J. A. Kingdon, *Richard Grafton, passim.*

Growth of London. See, besides Mr. Kingsford's references, *Survey*, ii. 367–8: the Mayor's letter, in Rec. Corp. Remembrancia, printed in full (with other important documents from those volumes) by the Malone Soc., *Collections*, i. (1), 47, and summarised in *Index to Remembrancia* (1878),p. 330-1; others in that *Index*, pp. 323, 331–3, 357–8, and 389,—the latter the first known official estimate of the population, 1631, giving it as 130,280 within civic jurisdiction ; *Acts of P.C.*, xxxii. 47–9 ; *Cal. S.P. Dom.* 1601–3, pp. 208-9, 291 ; and many entries in the Corporation records—Letter-

books, Repertories and Journals—*passim*. For the increase of trade and consumption of corn see N. S. B. Gras, *The English Corn Market* (1915), pp. 73 *seqq*. The data on which estimates of population have hitherto been based are, I think, fallacious; but something more trustworthy might be deduced from the unused chantry certificates at P.R.O., Roll 34, giving the number of 'howselling people' in most of the parishes c. 1548.

For the *Mint in Southwark* see *L. & P.* xxi. (2), 476 (93)—*cf.* xx. (2), 302; for the *Erber*, etc., the Drapers' records in Johnson, *op. cit.*, ii. *passim*; for *Salisbury Place* indenture in Bell's *Fleet Street*, p. 586 (*cf.* 214)—besides *L. Topog. Rec.* xii and *Arch.* lxxi. For the residents named, cf. *D.N.B.*, and for the Queen's visits Chambers' *Elizabethan Stage*, iv. 75 *seqq*.

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